

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RASHAUN BLANFORD,

Plaintiff,

v.

CORRECTION OFFICER S. BANKS, et al.,

Defendants.

**Declaration of
Assistant Attorney General
Brittany M. Haner**

Index No. 9:21-CV-0231
(TJM/CFH)

Brittany M. Haner, on the date noted below and pursuant to § 1746 of title 28 of the United States Code, declares the following to be true and correct under penalty of perjury under the laws of the United States of America:

1. I am an Assistant Attorney General and of Counsel in this case to Letitia James, Attorney General of the State of New York, attorney for Defendants Correction Officer S. Banks, Rehabilitation Coordinator B. Demeree, Registered Nurse S. Derocco, and Correction Officer D. Johnson.

2. I make this declaration in support of Defendants' Motion for Summary Judgment.

3. The information contained herein is based upon my personal knowledge.

4. Attached hereto, and made a part hereof, and marked Exhibit "A" is a true and

correct copy of the transcript of Plaintiff, Rashaun Blanford's May 2, 2022 deposition testimony.

Dated: Albany, New York
September 26, 2022

LETITIA JAMES
Attorney General of the State of New York
Attorney for Defendants
The Capitol
Albany, NY 12224-0341

By: /s/ Brittany M. Haner
Brittany M. Haner
Assistant Attorney General, of Counsel
Bar Roll No. 700987
Telephone: (518) 776-2389

Exhibit A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RASHAUN BLANFORD,

Plaintiff,

v

Index No.: 21-CV-0231

BANKS, et al,

Defendants.

_____X

DEPOSITION OF: RASHAUN BLANFORD

DATE: May 2, 2022

TIME: 9:05 a.m. to 11:36 a.m.

VENUE: WebEx

COPY

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2 APPEARANCES:

3 FOR THE PLAINTIFF:

4 Pro Se

5 FOR THE DEFENDANTS:

6 OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL

7 BY: BRITTANY HANER, A.A.G.

8 WILLIAM SCOTT, A.A.G.

9 The Capitol

10 Albany, New York 12224

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2 INDEX OF PROCEEDINGS

3 RASHAUN BLANFORD: Sworn

4 Direct Examination by Ms. Haner

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2 STIPULATIONS

3 It is HEREBY STIPULATED by and among the attorneys
4 for the respective parties, in accordance with the Federal
5 Rules of Civil Procedure, that this deposition may be
6 taken by the Defendant at this time, pursuant to subpoena;

7 FURTHER STIPULATED, that all objections except as to
8 the form of the questions and responsiveness of the
9 answers, be reserved until trial;

10 FURTHER STIPULATED, that the witness may read and
11 sign the deposition and make any corrections to same
12 before any Notary Public;

13 AND FURTHER STIPULATED, that if the original
14 deposition has not been duly signed by the witness and
15 returned to the attorney taking the deposition by the time
16 of trial or any hearing in this cause, a certified copy of
17 the deposition may be used as though it were the original

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2 (The deposition commenced at 09:05

3 a.m.)

4 THE REPORTER: On the record. It is
5 nine zero five a.m. All right. Mr. Blanford, will
6 you please raise your right hand? Do you swear or
7 affirm that the testimony that you are about to give
8 in this cause today is the truth, the whole truth and
9 nothing but the truth?

10 MR. BLANFORD: Yes, I do. I swear,
11 yes.

12 WITNESS; RASHAUN BLANFORD; Sworn

13 THE REPORTER: Will -- will you please
14 state your full name for the record?

15 THE WITNESS: My name is Rashun
16 Blanford, eighteen B zero nine zero eight.

17 THE REPORTER: The witness has been
18 sworn. Your witness, Ms. Haner.

19 DIRECT EXAMINATION

20 BY MS. HANER:

21 Q. Good morning. My name is
22 Brittany Haner. I'm an Assistant Attorney General
23 for New York State. You can put your hand down. I'm
24 representing the Defendant, correction officers and
25 nurse that you sued in a federal lawsuit.

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2 A. Yes.

3 Q. I mean, you know what I'm
4 referring to, right?

5 A. I know you're talking about
6 Banks, Mr. -- C.O. Johnson, Nurse Doroco, yes.

7 Q. That's right. Okay. So I'm just
8 going to go over a couple of things at the outset to
9 make things easier for us. I'm going to ask you a
10 bunch of questions today. If you don't understand my
11 question, feel free to tell me you don't understand
12 my question, I'll rephrase it for you as many times
13 as you need, you know, just want to go through that
14 you know what you're being asked, so you can give
15 good answers.

16 If you don't understand the question
17 and you don't ask me, I would just assume that you do
18 understand.

19 A. Okay.

20 Q. And if I ask you a question and
21 you don't know the answer, it's perfectly fine to say
22 that you don't know.

23 A. Okay. And excuse me?

24 Q. Sure.

25 A. And -- and this is about the

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2 February 2nd incident. Do you want me to explain
3 everything that happened? I mean, I could tell you
4 everything that happened, and I was saying -- I was
5 told that you all received the incident of the video,
6 right? So I say, explain everything happen now or
7 whatever.

8 Q. Well, in a manner of speaking
9 sort of. What happens today in the deposition is, I
10 just ask you questions, and you give me answers. And
11 I ask questions --

12 A. Okay.

13 Q. -- you give me answers. It's not
14 really -- it's not really like, as open ended as that
15 but yeah, you will be able to tell me what happened,
16 but I'll just ask you sort of point by point.

17 A. You can ask the question on the
18 video. You -- huh, excuse me?

19 Q. Go ahead.

20 A. Can I ask you, now on the video,
21 does the video shows everything that I'm saying as
22 far as in the complaint like everything that was did
23 with it?

24 Q. I won't be able to answer that
25 for you today. I'm just here to ask you questions

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2 about the lawsuit. I'm sorry.

3 A. Okay. And I still haven't got
4 representative lawyers that they said they were going
5 to give me when I started going to trial.

6 Q. And that's also something that --
7 that I can't personally address. I think that you
8 had motions, but you'd -- you'd have to deal with
9 that -- with the Court.

10 A. Okay.

11 Q. So if at any point today you need
12 a break, let me know that you need a break, we can go
13 ahead and take one. I know that sometimes people get
14 their -- their lunches or breakfasts or whatever
15 served while we're doing this.

16 A. Right.

17 Q. You know, I don't want to see you
18 miss your meal break. So we can take a break or, you
19 know, for any reason. I just ask that the question
20 that I'm asking, that you answer the question before
21 we take a break.

22 A. No, problem.

23 Q. And so -- sure. Try to remember
24 that there is a transcript being recorded today. So
25 it's a written transcript. And the transcriber

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2 cannot take down things like head nods and gestures
3 and things.

4 A. Okay.

5 Q. So make sure that your answers
6 are verbal, like you say yes or no, so that they can
7 record your answer properly. And because you don't
8 have a lawyer present today, I just want to let you
9 know that when we do depositions, there's a standard
10 set of stipulations or agreements that we do during
11 these depositions.

12 And all that means is, whatever
13 objections that could be made to my questions, those
14 are preserved until the time of trial, so there's no
15 need to really make them now except if I ask you a
16 question that you don't understand, like the form of
17 the question, please let me know if you don't
18 understand.

19 A. Okay.

20 Q. Another stipulation that is
21 standard is that we agree is that the deposition is
22 properly noticed, like I gave you notice of it
23 properly and that the Court Reporter is duly
24 qualified. Right. So --

25 THE REPORTER: I just want to

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2 interrupt just for some housekeeping stuff as well --

3 MS. HANER: Go ahead.

4 THE REPORTER: -- on my end. So Mr.
5 Blanford, I just wanted to let you know, so as best
6 as you can, I know it's a little hard because it's
7 over digital. Try to let Ms. Haner finish her
8 question until you know she's done speaking and vice
9 versa. She'll do the same for you.

10 That way when the transcript comes
11 out, you know, everything is clear, there's not any
12 parts where we missed words because two people spoke
13 at the same time. We want to make sure, you know,
14 that you're able to get a, you know, the case that
15 you want out of it because the transcript comes out
16 properly.

17 THE WITNESS: I understand.

18 THE REPORTER: And the only other
19 thing just to add is that, just so you know, if you
20 say uh-huh, you can say it. But if you do say it, if
21 it's like an answer, like if someone says, do you
22 live at blah, blah, blah and you say, uh-huh. That
23 answer, I actually can't accept that.

24 THE WITNESS: It's not clear.

25 THE REPORTER: Yes, yes.

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2 THE WITNESS: Right.

3 THE REPORTER: Because -- yeah, you
4 understand. Okay. So if you say it unintentionally
5 during a long sentence, don't worry about it. I
6 won't say a thing but I may interrupt you just so you
7 know.

8 THE WITNESS: All right.

9 THE REPORTER: So that's --

10 MS. HANER: So I'll try to help you
11 out and ask you, you know, is that yes or no? If you
12 mumble or nod, I'll say, is that a yes or no.

13 THE REPORTER: But --

14 MS. HANER: A normal con --
15 conversation you can say it, and this is a different
16 thing.

17 THE REPORTER: Yeah. And that's all I
18 have to say on my end. So we're all set to proceed.
19 So thank you, Mr. Blanford and thank you, Ms. Haner.

20 MS. HANER: Thank you.

21 BY MS. HANER: (Cont'g.)

22 Q. Okay. So Mr. Blanford, where are
23 you right now?

24 A. I'm in Wende Correctional
25 Facility in the visiting room.

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2 Q. Visiting room. And is there
3 anyone in that room with you?

4 A. Yeah, there's a counselor whose
5 name I don't know because this is the first time I've
6 seen him.

7 Q. Is that it?

8 A. Yes, that's it.

9 Q. Okay. So --

10 A. Besides me -- besides me.

11 Q. All right. It sounds like
12 someone else in the room with you. I just want to
13 make sure that you understand that when I ask you a
14 question, the answers have to come from you.

15 I don't -- I don't think that the
16 counselor would give you an answer but just as a
17 precautionary thing, the answers do have to come from
18 you.

19 A. Okay.

20 Q. So let's get into our first set
21 of questions. What is your name, just for the
22 record?

23 A. My -- my name is Rashun Blanford,
24 R-A-S-H-U-N B-L-A-N-F-O-R-D.

25 Q. Okay. And how old are you?

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2 A. I'm twenty-five years old.

3 Q. And where are you from?

4 A. I'm from -- I'm from Syracuse,
5 New York, but originally, I was born in Florida, but
6 I'm from Syracuse, New York.

7 Q. Okay. How long have you been
8 incarcerated?

9 A. On this bid, I've been
10 incarcerated going on five years as of September, I
11 don't know the exact date, but as of September, I've
12 been going on five years.

13 Q. Okay. And what are you in for?

14 A. I'm in for attempted murder and
15 criminal possession of a weapon.

16 Q. Okay. And you said this is your
17 -- on this bid. So that means that you probably were
18 incarcerated before. Were you incarcerated prior to
19 this?

20 A. Yes, I was. This is my second
21 bid.

22 Q. Okay. What was the first one?

23 A. My first one was -- do you mean
24 my DIN number?

25 Q. No, just that -- where were you

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2 incarcerated before?

3 A. I was -- well, I was incarcerated
4 in New York State.

5 Q. Okay.

6 A. And I was locked up for robbery,
7 grand larceny, assault, something else, which I
8 forgot.

9 Q. Okay. How long did you serve for
10 that?

11 A. One and a third to four years and
12 I end up doing all four.

13 Q. You did all four, okay. Do you
14 remember where you served out your term? Where you
15 were let out?

16 A. Yes. Yes, I end up serving the
17 whole four years. And I got -- they civilly confined
18 me upon my release.

19 Q. Okay. And where was that?

20 A. To the Greater Binghamton
21 Hospitals.

22 Q. Did I understand that you were
23 released to Greater Binghamton Hospital?

24 A. That's correct. I wasn't --
25 correct. And I was also -- go ahead.

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2 Q. Where were you incarcerated

3 before you got released to Greater Binghamton?

4 A. Well, I was in -- I started up at

5 Bare Hill. From Bare Hill I went to Greene P.H.U. I

6 went to Ups -- no, I was -- pardon me. I was in Bare

7 Hill. Then I went to Upstate P.H.U. on it because I

8 was young. They send me to Greene P.H.U. on it.

9 From Greene, all of a sudden they send me to

10 Coxsackie.

11 From Coxsackie, I end up going to

12 Great Meadow P.H.U. well, Great Meadow in a regular

13 box. From there, I went to -- I went to Sullivan and

14 then I was going over to O.B.S. trips, I went to

15 several car programs and then from there, I went -- I

16 think I went to Auburn or somewhere, but either way,

17 it goes -- I was going through a -- going through a

18 whole bunch of prisons, basically all the prison

19 that's around.

20 Q. Okay. Have you ever been at

21 Marcy's R.M.H.U. before --

22 A. Yes.

23 Q. -- this incident?

24 A. No, this is the first time that

25 I've ever been in Marcy R.M.H.U.

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2 Q. Okay. Did you know any of the
3 defendants before the incident that you complained
4 about?

5 A. To be honest, on this bid, this
6 is the second time I was there. So yes.

7 Q. Okay. Can you -- we'll go one by
8 one. Can you tell me how you knew Nurse Doroco
9 before this incident?

10 A. No, I'm talking about this prior
11 incident. I knew -- I didn't know her, but the C.O.
12 that was involved, I knew him, when I was there
13 before on this bid, like in early year 2022, back in
14 early 2021 -- no, 2020, if I'm not mistaken.

15 Q. Okay. So it's your testimony
16 that you didn't know Nurse Doroco before the
17 incident?

18 A. No, I did not know her.

19 Q. Okay. So did you know Correction
20 Officer Johnson before the incident?

21 A. Yes, because he was there last
22 time. When I was there, yes.

23 Q. Okay. Can you tell me how you
24 knew him?

25 A. I knew him because when I was in

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2 the R.M.H.U the first time around two thousand -- I'm
3 going to say 2020. He was one of the C.O.s that have
4 been there for a long period of time and I knew him
5 because he is just one of those C.O.s that just don't
6 leave the facility. He is always there.

7 Q. Okay. Do you have --

8 A. I just never spoke to him.

9 Q. You never spoke to him. Is that
10 what you said?

11 A. Yeah, because I don't speak to
12 these people because of the stuff they've been doing
13 some time. So I just tried to stay to myself. I
14 talked to him because I have to, but I just don't
15 really talk to them like that.

16 Q. Okay. So did you have any
17 negative interactions with him before this incident?

18 A. I never -- I never -- I never
19 ever had no negative interactions with him
20 whatsoever.

21 Q. Okay.

22 A. I only had -- go ahead.

23 Q. What about C.O. Banks?

24 A. Yes.

25 Q. Did you know him before?

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2 A. Yes, I did. He was -- he is gang
3 intelligent -- a fake gang intelligence officer that
4 works here in R.M.H.U. He never liked me. He always
5 used to harass me and stuff like that, and he always
6 wanted to do stuff as far as -- he always want to,
7 like, do some stuff, whenever he got opportunity to
8 do it to me, but I just never gave him the
9 opportunity, I guess, until this incident happened.
10 But yes, I knew him.

11 Q. Okay. And what about C.O.
12 Demory? Did you know him before the incident?

13 A. That Demory, he's a civilian. I
14 never really knew him until now. Even if he was here
15 for a bid --

16 Q. What do you mean by now?

17 A. Yeah, because when I was on my --
18 when I was there in 2020, I never really used to pay
19 attention to him, but I started paying attention to
20 him more so.

21 If he was here then, I didn't know
22 because I never talked to him or spoke to him. But
23 since I start to pay attention -- pardon me. Since I
24 started to pay attention, I know him now because I
25 spoke to him.

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2 Q. Okay. So is it your testimony
3 that you did not know him before the incident, but
4 you do know him now?

5 A. Correct.

6 Q. Okay. Thank you. Can you tell
7 me why you're at the R.M.H.U. at Marcy instead of
8 general population?

9 A. Well, Marcy R.M.H.U. was a mental
10 health -- is a mental health program. It's designed
11 for level 1S, 1SB, basically anybody who's got the
12 1S designation and that fits the criteria.

13 And in that program, we got -- we get
14 two hours in the morning, two hours in the afternoon.
15 There's cameras everywhere throughout the program.
16 There's audio everywhere in the program.

17 And whenever we go out to the program
18 that, well, we got handcuffs behind our back. And
19 then they bring us to a table, and they put shackles
20 on us, my hands is like this. They take the shackles
21 off and so it's like this.

22 Now, after a month or thirty days,
23 that's when you would go to -- that's when you're
24 level two. Level two, you get to buy food, you get
25 to use a phone more, more rec period and then like

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2 ninety days later, that's when you're level three
3 meaning you get to walk out without handcuffs.

4 You got to get your personal property
5 and you get to walk around with a little more
6 privilege, lot of privilege that you have time to get
7 to watch T.V. and stuff like, yeah.

8 Q. Okay. So how do you get put in
9 the R.M.H.U. instead of general population though?

10 A. All right. Let's -- I'm one that
11 -- so let's say I get into a fight, right? If I get
12 into a fight and I get maced that's a use of force.
13 So now because I got maced during a fight, they're
14 going to send me to the box.

15 In the box, I can't do no more than
16 thirty days in the box because I'm a 1S. So with it
17 -- so now while I'm going through my hearing, they
18 try to figure out a place to send me to.

19 So when the thirty days comes up,
20 that's when they send me to a program that's
21 designated for me and that's how I end up in the
22 mental health program.

23 Q. Okay. Thank you. Could you
24 explain to me what 1S is. I'm not familiar with
25 that.

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2 A. Level 1S is just like severely
3 mentally ill like people that do a lot of crazy stuff
4 like swallow metal, just -- like put stuff in their
5 thing, and they -- just do a whole bunch of crazy
6 stuff. These people --

7 Q. Okay.

8 A. -- are in a mental health crisis
9 and they just do stuff. They just do stuff because
10 they're going through and then that C.O.s messing
11 with them, and they going through it, or they just
12 tired of being in a box and they just -- that's the
13 only way out. They know how to cope with the stress.

14 Q. Okay.

15 A. They assault somebody or
16 whatever.

17 Q. Understood. Okay. Thank you.
18 Have you ever filed a lawsuit against a corrections
19 officer or prison staff before this lawsuit?

20 A. To be -- to be honest, this is
21 the first time I've ever filed a lawsuit, you know.
22 And the only reason why I filed it because it was on
23 camera, and I had more -- I had more evidence to
24 support -- to support on my behalf than they did.

25 So I'm like, you know what, since

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2 everything happened on camera and -- and I got a
3 whole bunch of paperwork, I had a lot going for me,
4 so I filed it.

5 Q. Okay. Thank you. All right. So
6 let's talk a little bit more about the day of the
7 incident in your complaint.

8 A. Yes.

9 Q. Where were you at -- in the
10 R.M.H.U. at Marcy when the incident occurred exactly?

11 A. All right. On February 2nd,
12 2021, I was on A Two, the second floor. There's
13 cameras that are pointed down like this and there's
14 an audio. And my cell it was right -- I don't know
15 the exact cell, but my cell was right there and
16 there's cameras pointed right like this.

17 THE REPORTER: Mr. Blanford, just so
18 you're aware. When you say pointed like this, if you
19 want to try to say the verbal direction, just so it -
20 - it comes out. I know it's hard to say, but I just
21 want to help the transcript be good because I can't
22 dictate the -- the arm directions.

23 So I can't say like you're pointing
24 down, for example. I can't say that.

25 THE WITNESS: Okay. The camera is

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2 pointing towards each other. And then there was an
3 audio box to the side. I don't know the exact cell
4 location that I was at, but it should be in the
5 discovery packet. You should have it, but yeah, I
6 don't know the exact cell I was at.

7 BY MS. HANER: (Cont'g.)

8 Q. So is it your testimony that
9 during the incident you were inside of your cell or
10 near your cell?

11 A. This is what happened. I
12 inserted two pen tips inside my penis. I stated that
13 I was suicidal, I was in a mental health crisis. I
14 tried to call for staff attention. I said, I need --
15 I need to see mental health, I'm suicidal.

16 The lieutenant came up there and asked
17 me what happened. I said, I inserted two pen tips
18 inside of my penis. And I was pissed off. I said I
19 was going through a mental health crisis. I say I
20 want to go out to the outside hospital. I need to
21 get this out of me. He said, I'm not going nowhere.

22 So then I said, I was suicidal. The
23 C.O. -- the lieutenant told the -- I guess,
24 lieutenant at the mental health but I told the mental
25 health that I was suicidal as well. So then that's

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2 when the C.O., Mr. Johnson came in front of my cell.

3 I had my back turned, put my hands
4 behind my back. He opened up my cell. Then I have -
5 - I did not refuse any orders he gave me. I had my
6 hands turned behind my back. He grabbed my cuffs,
7 the next thing you know, for no reason, he started
8 trying to push me in my cell.

9 When he start trying to put -- when he
10 started to try to push me in my cell, there's a cell,
11 the cell opened up. So he tried to push me in my
12 cell so he could beat me up and other stuff, so I put
13 my feet outside of the cell to block him from pushing
14 me in my cell. Do you know what I'm saying?

15 And during that process, that's when
16 he picked me up, literally picked me up and threw me.
17 My head hit the wall and then I hit the ground. I'm
18 in handcuffs right in front of the camera.

19 Everybody on the company was screaming
20 PREA, PREA, PREA. And then C.O. Banks had nothing to
21 do with the incident. He came running up the stairs.
22 He went towards me, and he stopped.

23 And then came running towards me,
24 grabbed me. He said, stop resisting, stop resisting,
25 pardon me. And I'm just sitting here, look man, I'm

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2 like -- I'm not even resisting. He grabbed me and
3 turned me around.

4 And the other officer which is Johnson
5 grabbed me and along with it, when he grabbed me he
6 sexually touched my butt, right. And then that's
7 when they put the shackles on me and then they took
8 me to medical where I was, pardon me.

9 While I was in the medical, I told Ms.
10 Doroco that I got two metal pen tips. It's like a
11 SHU pen. I got two pen tips inside of my penis. Can
12 you take this out? Can you send me to the hospital?
13 So they can come out. She said, she told me to take
14 it out in my cell.

15 And then after that I was on
16 contraband watch. And then the only way you could be
17 on a contraband watch is you -- if you have something
18 inside of you. They was telling me that nothing was
19 inside of me.

20 So then after I got off the contraband
21 watch, I was in O.B.S. When I was in O.B.S., I tried
22 to tell -- no, I tried to tell Demory in the
23 contraband watch that I got metal pen tips inside of
24 me. He told me to think about what I did. And I
25 said, I made probably a few statements toward him.

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2 So -- but anyways -- did you hear me?

3 Q. I can hear you.

4 A. Yeah, he told me to think about
5 what I did. So in other words, I was refused medical
6 treatment. I'm like, okay. Then after the whole
7 situation happened, while I was on contraband watch,
8 I went to O.B.S.

9 From O.B.S. I went back to my cell.
10 That's when I started writing a grievance. That's
11 when I start calling O.S.I. calling I.G., the
12 inspector general. The inspector then -- no, the
13 O.S.I. investigator came and saw me. He asked me --
14 he had a recorder in his hand.

15 He asked me what was I trying to do?
16 I said, I was trying to file a -- no, press charges
17 and -- and then let them know everything happened.
18 He says he is going to get back to me. He never did.

19 The grievance. Listen, I was seen
20 about it by Ms. Demory that same day. She forward it
21 to O.S.I. And after that, I just been pretty much --
22 so after that it's been pretty much writing to make
23 sure everything is still going on with it -- with the
24 case and I haven't heard nothing back.

25 Q. Okay. So I'm just going to

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2 rewind a little bit and I'm going to ask you bunch of
3 a quest -- questions to kind of break that down a bit
4 because that was a lot of information. So I'm sorry
5 if I ask you to repeat some answers.

6 You -- you said earlier that C.O.
7 Banks is, what you called, a fake gang intelligence
8 officer?

9 A. Yeah, the reason that I --.

10 Q. Yeah.

11 A. Go ahead.

12 Q. Are you affiliated with the gang?
13 Are you in a gang?

14 A. No, listen, to be honest, I'm not
15 a gang member. These people here got me down as a
16 Crip, these people here is retarded. I don't do gang
17 bang. I don't do that in prison, nothing.

18 The C.O. lied on his ticket at Bare
19 Hill and said some -- something about some nonsense
20 and they just -- they look me as a gang member.

21 That's why I'm not even a gang member.

22 So now --

23 Q. Okay.

24 A. -- because of that ticket that
25 the C.O. lied on, I've got to deal with that gang

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2 affiliation on my records when I'm not even a gang
3 member.

4 Q. Okay. If you have a gang
5 affiliation on your record, do you get watched more
6 closely by the C.O.s or anything?

7 A. To be -- to be honest, if you --
8 they watch because you're in prison and there's a lot
9 of stuff that goes on. But my thing is, like, they
10 always did what the C.O.s doing because you got gang
11 intelligence in every facility.

12 So what they do is, they look people
13 up who come into the facility and work as a gang
14 member. They watch you and they watch -- even if
15 you're not a gang member just because it states here,
16 they watch you.

17 So that's why I said fake gang
18 intelligence because the C.O.s here, they think every
19 little thing or no, they think just because they say
20 you're a gang member on the record or because you say
21 something that makes you a gang member. That's why I
22 said fake gang intelligence, but --.

23 Q. Okay.

24 A. Yeah, they watched you closely.

25 Q. Okay. Thank you. All right. So

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2 you -- you said that you were having a mental health
3 crisis, and felt suicidal, and you inserted, I think
4 you're saying pen tips into your penis. Can you
5 explain what you're talking about?

6 A. All right. It's two metal pen
7 tips when you have in your shoe, it's like a plastic
8 pin. So I put the two pen tips inside my penis
9 because, to be honest, the C.O.s was messing with me.

10 So I did that so I can talk to them
11 like, well, listen, why do you keep messing me? I
12 never did nothing to you. Stop playing with my food
13 but -- and I wanted to go out to the outside
14 hospital.

15 So whatever we got, we could just talk
16 about it like men or whatever. But like I said, that
17 didn't work because the lieutenant denied me medical
18 attention. And when I went to get -- when I went --
19 while this whole thing was going on.

20 After I left Marcy, I had to go to
21 Attica. I put in the sick call in Attica letting
22 them know that I got two metal pen tips inside my
23 penis. They got -- they got me x-rayed. They said
24 there was nothing inside of you.

25 So then after my three-months being

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2 there or four-months being in Attica G.D.P. program,
3 I was on my way to Downstate before it closed up.
4 You keeping up?

5 Q. Uh-huh.

6 A. I was on my way to -- I was on my
7 way to Downstate before it closed down. I swallowed
8 a lighter on purpose because I know if I swallowed a
9 lighter that Downstate, they -- they do their job.

10 So I went to -- while I was in
11 Downstate, I told them I had chest pains. They did a
12 thorough x-ray on me. The nurse down there did
13 actual x-rays in and say, oh, they see metal inside
14 of me.

15 They took me out from Downstate and
16 sent me to Mount Vernon Hospital in Mount Vernon.
17 While I was in Mount Vernon Hospital, they stated --
18 they did a C.A.T. scan. They did x-ray and there
19 they said, do you want surgery because they seen all
20 that metal inside of me.

21 They said, do you want surgery to get
22 this stuff out. And I said, yes. And then a few
23 days later, the next thing I know is they discharged
24 me and now I'm back here go through this right here,
25 but yes.

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2 Q. ' Okay. I'm sorry I'm going to

3 back you --.

4 A. I didn't hear you.

5 Q. I'm sorry, I'm going to back you

6 up a little bit. I just want to make sure I

7 understand what the object was. Are they made -- is

8 it your testimony that it was plastic, two plastic

9 items?

10 A. Yeah. It's -- it's a SHU pen. A

11 SHU -- can you excuse me. Can I talk to the

12 counselor, please? Can you show what a SHU pen look

13 like so she can see what it -- so she can see what it

14 is? You know the plastic pen that they have in a --

15 yeah. Hold on a minute.

16 Q. Okay. Anything that they show me

17 doesn't show on the transcript. You're going to have

18 to describe it in words.

19 A. All right. Say -- say this is a

20 SHU pen. It's plastic. This right -- this piece

21 right here is like this big. So I put two of these

22 inside my penis, but because it's not metal, it

23 didn't show up on these people record for whatever

24 reason. It didn't show up. And that's when I --

25 Q. Okay. We're now talking about a

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2 pen, like a writing utensil that they have in a
3 Special Housing Unit?

4 A. Exactly, yes.

5 Q. Okay.

6 A. I how you doing -- yes.

7 Q. All right. Thank you.

8 A. And every time I've been writing
9 for sick call, these people been -- how you doing,
10 talking about -- these people being sitting there
11 saying that it's not there, but I say, hold on.
12 That's impossible because when I was just in Mount
13 Vernon in the real world, they did -- their job is --
14 they seen something.

15 So how all of a sudden, I'm in state
16 prison and -- and that they keep saying they never
17 see -- nothing's up there.

18 Q. Okay.

19 A. That doesn't make sense.

20 Q. All right. So were you inside of
21 your cell when you inserted the pen tips?

22 A. I did -- I did it in front of the
23 C.O. I said, C.O. look, I'm putting this inside of
24 me, and I did it in front of him.

25 Q. Which C.O. was that?

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2 A. To be honest, I don't know.

3 Q. Okay. Can you describe what he
4 looks like?

5 A. To be -- I was so mad at the time
6 that -- to be honest, I wasn't even paying attention
7 really at right then and there.

8 Q. Okay. Do you remember anything
9 like, you know, his race, his hair color? The color
10 of his eyes?

11 A. I mean, I'm not trying to be
12 funny or nothing, but he was white.

13 Q. White, okay.

14 A. Yeah.

15 Q. Do you remember how tall he was?
16 What color hair, anything?

17 A. No, I don't.

18 Q. Nothing. Do you remember what
19 color uniform he had on?

20 A. Yeah, the -- a blue shirt. He
21 had a blue shirt on.

22 Q. Okay. Do -- big guy, small guy?

23 A. I can't -- I -- I'm not going to
24 say it like that. I don't -- I don't really know.

25 Q. No. So would you remember if he

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2 had any tattoos visible, anything like that, or
3 glasses on?

4 A. I think, if I'm not mistaken, I
5 don't think I've seen him with any glasses on.

6 Q. Okay. Do you remember if he had
7 facial hair?

8 A. No, I don't.

9 Q. Okay. All right. So you said
10 that you put the pen tips inside your penis, but
11 where did you put them? Did you put them in the
12 urethra or somewhere else?

13 A. Like you know, the -- the hole
14 that's in the penis, I stuck the -- I stuck the two
15 pen tips through the pee hole and I said --

16 Q. Okay.

17 A. -- look, this is in here and I'm
18 showing -- I'm showing the C.O.s that this is in
19 here. And I pushed it down. They still did nothing.
20 Literally they still stuck inside of me --

21 Q. Okay.

22 A. -- from, since February 2nd. And
23 I put in for a sick call slip here. I made a PREA
24 complaint. They did a x-ray on me here and pardon
25 me, they said that there's no pen tips inside of me.

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2 And I'm like, it's impossible because
3 I was just in Downstate, and they said there was
4 something inside of me. So yes --

5 Q. Okay.

6 A. -- there's a whole bunch of metal
7 that still stuck inside of me.

8 Q. Okay. So you said that there was
9 a correction officer there when you -- you put the
10 pen tip in. Did you tell anybody else that you had
11 done that?

12 A. Yes, I told --.

13 Q. How long did you wait to tell
14 anyone?

15 A. I told -- I told the nurses there
16 that same day and I went on a hunger strike to let
17 people know, listen, I got metal stuck inside of me.
18 Can you all do something about it? I even went on a
19 hunger strike --

20 Q. Okay.

21 A. -- which is all in my file.

22 Q. Did you put in the medical slip
23 that day?

24 A. I -- yes. And you know what
25 happened? I put in the medical slip. When I came

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2 back, after O.S.I. came and seen me, received the
3 video of me being assaulted, the Nurse Doroco, she --
4 she put like a pink urethras thing inside my penis to
5 try to drain it out and nothing came out.

6 I think she -- by her doing that, she
7 just pushed it deeper where it's at and now, it's
8 stuck inside of me.

9 Q. Okay. So let me back up a little
10 bit. That day you -- you inserted the tips, you
11 testified?

12 A. Correct.

13 Q. And you were taken out of your
14 cell. And I'll ask you --

15 A. Yeah.

16 Q. -- some questions about that in a
17 minute. I just want to cover one thing at a time.
18 When you were taken out of your cell, where did they
19 take you to?

20 A. They threw me -- they threw me
21 towards the wall. I hit the ground. I was taken to
22 medical. From medical, I was taken to the strip
23 frisk room.

24 From the strip frisk room, I was taken
25 to another company to another company inside the cell

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2 with a C.O. watching me with nothing inside there
3 besides the mattress and the smock, that's it.

4 They didn't give me no medical
5 attention.

6 Q. Okay. When you say you were
7 brought to another company, are you talking about a
8 contraband watch?

9 A. Yes.

10 Q. Okay. So when they took you to
11 medical, do you know who examined you? Was that --?

12 A. Nurse -- excuse me. Pardon me
13 for being loud. It was Nurse Doroco.

14 Q. Okay.

15 A. That's the lady who stated --.

16 Q. And can you just walk me -- I'm
17 sorry to interrupt you. Go ahead.

18 A. That's the lady who stated on my
19 medical use of force paper that there was nothing
20 wrong with me and she stated to take it out myself.
21 That's that lady right there.

22 Q. Okay. So can you just walk me
23 through what happened when you got to medical.
24 Basically, describe her exam and treatment.

25 A. Yeah, when I went to -- when I

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2 went to medical after the situation happened, I said,
3 excuse me, I got two pen tips stuck inside my penis.
4 You need to get this out.

5 She told me to take it out myself with
6 attitude and I'm looking at her like, you realize I
7 got two pen tips stuck inside of me. I keep -- if I
8 could get it out, I wouldn't even be crying to you
9 but for the most part, she said that, and I was
10 denied medical treatment there.

11 When I was on a contraband watch, I
12 went on a hunger strike and let people know the
13 reason why I'm not eating because I got metal stuck
14 inside my penis and you all aren't doing nothing
15 about it.

16 Only thing the nurse told me was, oh,
17 drink some water and it will pass. And that's --.

18 Q. Okay. Okay. So you -- you
19 testified that you were taken from medical to a strip
20 frisk and then you were put on contraband watch?

21 A. Yes.

22 Q. Did you have a medical attention
23 while you're on contraband watch at all?

24 A. Yes, I -- yes, yes, yes. Yes, I
25 did.

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2 Q. Did you submit medical slips for
3 that?

4 A. On the contraband watch, I can't
5 do nothing, but when I got back to my normal cell, I
6 put in for a sick call and I would -- I received
7 medical treat -- attention, but nothing still came
8 out.

9 Q. So am I correct that your
10 testimony is that you didn't ask for medical
11 attention during contraband watch?

12 A. No, I -- I did, but I just
13 couldn't write. I couldn't do no writing because I
14 was on a contraband watch. I was letting --

15 Q. Okay.

16 A. -- everybody know that I got two
17 pen tips stuck inside of me and that when I was piss
18 -- oh, when I was using the bathroom there was blood
19 coming out. They did absolutely nothing for me when
20 I was on contraband watch and if you think I'm lying,
21 you can get the video because there's cameras right
22 on the company where I was at, and you could see that
23 everything I'm saying is true.

24 Q. Okay. Who did you ask for
25 medical attention while you were on contraband watch?

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2 A. I ask that -- it was a nurse. It
3 was a old nurse lady. Oh, man. It was the old nurse
4 lady. I don't know her exact name but there was the
5 nurse lady that was there.

6 Q. When you say she is there, do you
7 mean that she is assigned to work there?

8 A. Yes.

9 Q. Can you describe her for me?

10 A. To be honest, I can't.

11 Q. Okay. Do you -- do you remember
12 her race?

13 A. Yeah, she is white. A lot of
14 C.O.s that worked -- that worked in Marcy R.M.H.U. is
15 white.

16 Q. Okay. You said she was old. How
17 old would you say she is?

18 A. Cool -- I mean, pardon me,
19 grandmas -- grandma old.

20 Q. Well, some of us have a funny old
21 grandma. There's -- some of us have a hundred-year-
22 old grandmother, so.

23 A. All right. So she looked as like
24 -- she was in like her 50s or 60s. That's my
25 assumption, I could be off, but she looks like --

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2 Q. That's okay.

3 A. -- she was around there.

4 Q. Okay. Okay. Do you remember her
5 stature? Was she tall, short, heavysset, skinny?

6 A. Yes, she was short.

7 Q. She was short? Do you remember
8 her hair color?

9 A. No, I don't.

10 Q. Okay. Did she wear glasses?

11 A. I wasn't paying attention to her
12 like that.

13 Q. Okay.

14 A. I don't know.

15 Q. And anything else that you --
16 that stuck out to you like a tattoo or anything that
17 you think would help identify her?

18 A. To be honest, when I'm mad, I
19 don't really be paying attention to people like that.

20 Q. Okay.

21 A. They are like when I -- when I'm
22 not mad and I start playing it back no, not that I --
23 not that I know of.

24 Q. Okay. So you said you asked her
25 for medical care. Can you tell me specifically what

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2 you said to her?

3 A. I said, excuse me, miss, my -- my
4 penis is hurting. I got two metal pen tips stuck
5 inside of me. I'm not peeing, and she was telling me
6 that, oh, they will pass, and she was saying drink
7 water. That was it.

8 Q. Did she examine it by looking at
9 it?

10 A. Did she? No. Actually, no. She
11 didn't do none of that.

12 Q. Okay. And how long were you on
13 contraband watch?

14 A. For -- I think like February 2nd.
15 I don't know what that -- what date that was. I was
16 only on contraband watch for like, for -- probably
17 for the rest of that weekend. I got off like that
18 Monday.

19 Q. Okay. So --.

20 A. So let's say it happened on
21 Tuesday and they had me Tuesday on the contraband
22 watch, Wednesday, Thursday and Friday, Saturday,
23 Sunday, Monday, so about like seven -- almost a week.

24 Q. Okay. Did you tell anyone else
25 except for the nurse while you're on contraband

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2 watch?

3 A. I told the -- I told the nurse.

4 I told the sergeant. I told -- listen. I told the

5 civilian, which is Demory. I told everybody that

6 walked through and then I just stopped talking.

7 Q. Okay. When you said you told

8 them, what did -- what were you saying to them

9 exactly?

10 A. I got two -- I said, I got to two

11 metal pen tips stuck inside of me. You're going to

12 do something about this and they just sitting there

13 looking at me just, oh, we're going to check into it.

14 Oh, it's going to pass. And that was it. I'm like,

15 okay.

16 Q. Okay. Were you ever sent to

17 medical while you were on contraband watch?

18 A. When I was on contraband watch, I

19 never once got sent to medical and I kept on telling

20 them, yo. I said, by me being in a contraband watch,

21 you all got to do something about this. You're not

22 doing that. I said, you all do realize that you --

23 you're all on camera, it's going to come back, and

24 they just started.

25 One of the C.O.s came to my cell and

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2 laughed and then, he say, ha, ha, ha, ha. We gave
3 you a lawsuit, literally on camera.

4 Q. Which C.O. was that?

5 A. Him? I don't know because, like
6 I said, I wasn't talking to a lot of them over there
7 because, yeah, I just don't talk to him like that.
8 But he literally --

9 Q. Okay.

10 A. -- came in my cell and laughed in
11 my face when I was going through the whole situation.

12 Q. Okay. And then you -- after you
13 were on contraband watch, you testified that you went
14 back to your regular cell. Did you put a metal --

15 A. No, I went to -- I went to --

16 MR. SCOTT: Objection.

17 THE WITNESS: I went to O -- I went to
18 O.B.S. And then I went to my regular cell.

19 BY MS. HANER: (Cont'g.)

20 Q. Is -- what is O.B.S.?
21 Observation?

22 A. Yes, it's a observation cell.
23 When you would like in a strip, it's like you got
24 green mats, you got smocks and a sink, and you're
25 basically closed in like your own cell.

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2 Q. Okay. How long were you in
3 observation?

4 A. Probably for like Saturday,
5 Sunday, probably for like a day-and-a-half. And I
6 got off on Monday.

7 Q. Okay. Okay. Did you ask for
8 medical attention while you were in the observation
9 cell?

10 A. Yeah, I was asking almost every
11 single day for medical attention. They didn't do
12 nothing for me when I was in O.B.S.

13 Q. Okay. When you're in O.B.S., did
14 you submit medical slips asking for care or did you
15 just ask the people?

16 A. I mean, I was just verbally
17 asking because I can't write nothing when I'm in
18 O.B.S.

19 Q. Why can't you verbally write
20 anything?

21 A. Because when you were in O.B.S.
22 that means you're suicidal and if we were suicidal,
23 they're not going to give you a pen while you're in a
24 suicidal state of mind because if they give you a
25 pen, if something happens to you, it goes back on

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2 them.

3 Q. Okay. So do you know who it was
4 that you asked for medical care?

5 A. To be honest, I was -- if you was
6 to get the records, I was asking everybody that's --
7 that was down there. Sometimes I'll just ask people
8 about it, and I don't even know their names.

9 Q. Okay. Is there anyone that you
10 asked for medical care that you could describe to me
11 so I can identify them?

12 A. I mean the nurse, Nurse Doroco
13 who denied me. I asked her for help. Besides the
14 short old lady whose name I don't know.

15 Q. Are you saying that Nurse Doroco
16 was also there while you were in the observation
17 cell?

18 A. No, she was the one that was in a
19 medical room when I got denied medical attention but
20 that was the thing, you know everyone who I asked,
21 who I have a hope.

22 Q. I'm sorry. I think my question
23 was confusing. I was just asking you about during
24 the period of time you were in the observation cell.

25 A. Okay. Okay. I asked all the

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2 nurses that came through down there, let them know
3 that I got two metal pen tips stuck inside of me. I
4 let the sergeant know. He is the red -- now, him, I
5 remember, but I still have no help.

6 Q. Okay. Do you remember anyone's
7 names that you asked for help?

8 A. I mean the sergeant, he is black.
9 I don't know his name.

10 Q. Okay. And how about the nurses?

11 A. Nurse Doroco. You had a old lady
12 whose name I don't know, and I ask Demory for help,
13 which is a civilian.

14 Q. When you say Demory is a
15 civilian, what do you mean?

16 A. He's the old lady. She yeah, or
17 something like that.

18 Q. Okay.

19 A. Or some, yeah, some -- something
20 like -- I don't know the exact name because I don't
21 have documents in front of me, but he is somewhere in
22 the O.M.H.

23 Q. Okay. When you asked them for
24 medical care, what did they -- what did they say to
25 you?

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2 A. He told me think about what you
3 did, meaning that because, you know, they stick up
4 for the C.O.s whether they right or wrong. So I say,
5 listen, I got two pen tips stuck inside of me. Can
6 you please report this, and I would like make a
7 complaint or something like that.

8 He was like, he looked at me literally
9 and said, think about what you did. And I'm like,
10 I'm looking at him, I say, yo, there's audio right
11 there I said watch, and he just walked on.

12 Q. You're referring to Defendant
13 Demory?

14 A. Demory, yes.

15 Q. Okay.

16 A. That happened when I was on a
17 contraband watch on the other company.

18 Q. Okay.

19 A. I think it happened on that other
20 --.

21 Q. When they put you back in your
22 regular cell, did you ask for medical attention
23 there?

24 A. Yeah, but check this out. The
25 only way that I got medical attention was after

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2 party. I said, check this out. The only way how I
3 got medical attention was after when the O.S.I.
4 investigator came because after the O.S.I.
5 investigator came, Mr. Pavlik or House, I don't know
6 his name either.

7 But I guess he received the video, the
8 incident or whatever. And then that's when they
9 wanted to act like they was giving me medical
10 attention afterwards. But they didn't really do
11 nothing for me.

12 Q. Okay. So I just have to rewind
13 you a little bit just so I understand everything step
14 by step and I'm sorry for that because that's makes
15 you repeat yourself a lot.

16 When you went back to your regular
17 cell, did you submit medical slips for medical
18 attention?

19 A. Yes, I slip -- I said a slip. I
20 put in sick calls slips let them know that my -- I
21 feel a sharp pain when I urinate. What happened was
22 the lady came to do a urine sample and I stated that,
23 I can't piss because I just can't piss because
24 there's something inside of me, it hurts when I piss.

25 She lied and stated that I refused to

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2 give a urine sample when I never refused. And I'm
3 looking at them like, no, you know, I got pen tips
4 stuck inside of me. I can't even piss right. And
5 you telling them that I refused. And she walked off.
6 Got it?

7 Q. Okay. Do you know who that was?

8 A. I don't know because it was early
9 in the morning.

10 Q. Okay. So do you know when you
11 submitted the sick call slips? The dates maybe.

12 A. To be honest, I -- I was putting
13 in sick calls slips, I think every day.

14 Q. Every day?

15 A. And then, I was write -- yes, and
16 I was writing to outside agencies, letting them know
17 like I was putting in sick call slips to other
18 agencies that I need help.

19 Q. You said you submitted them every
20 day, every day for how long?

21 A. Almost every day.

22 Q. Okay.

23 A. Because I can't keep tracking of
24 it because I don't have all my paperwork because they
25 threw out some of my documents but almost every day,

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2 I was keeping track of it.

3 Q. Okay. How long did you do that
4 for?

5 A. Say that again.

6 Q. How long did you do that for?

7 A. I'd probably say with --
8 throughout that whole month and then when I -- when I
9 left, I was doing it in every facility that I went
10 to, and they got documents of that.

11 Q. Okay. When you requested medical
12 attention at the other facilities, did you submit
13 medical slips for that?

14 A. Yeah. Yes, I let them know that
15 I was still in sharp pain, and it was hard -- hard
16 for me, I can't urinate and they -- they did the x-
17 ray machine -- thing on me and according to them
18 nothing was in there.

19 Q. Okay. So you testified earlier
20 that Nurse Doroco did a physical exam the day it
21 happened.

22 A. Yes.

23 Q. What was the next time that
24 somebody actually looked at the injury?

25 A. To be honest when Nurse Doroco

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2 said take it out yourself. You had the doctor,
3 nurse, I put up for sick call. You had a -- I think
4 she was a unity or a doctor whatever. I came out to
5 see her. She looked at my stuff. She was --
6 whatever, trying to see -- see where the metal was
7 at.

8 And she was like, if metal was stuck
9 in you, I would have felt that it is impossible for
10 metal to be stuck inside of you, it would have
11 passed. And I'm looking at her and she was like, I
12 was the one that denied you that didn't want to go to
13 out to the hospital, in her own word she said that.
14 And I'm looking at her, like, but yeah, I don't know
15 her name though.

16 Q. Okay.

17 A. She was just trying to stick up -
18 - she was just sticking up for the other nurse
19 because the other nurse messed up and she was just
20 sticking up for her. That's all she was doing.

21 Q. Okay. So after Ms. Doroco took a
22 look at it the first day, when was the next time that
23 somebody actually looked at it?

24 A. Like a few weeks later after
25 O.S.I. came, I put in for a sick call. Nurse Doroco

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2 had -- she looked at it. Then she want to put the
3 pink urethra thing, or it was like a small pink
4 thing. She is sticking up in there and she tried to
5 drain it out, but nothing came out.

6 Q. Okay. So is it your testimony
7 that the nurse tried to drained it out a few weeks
8 after you had inserted them?

9 A. Yeah, but nothing came out.

10 Q. Okay. And you mentioned
11 something earlier about x-rays. Can you tell me when
12 they did x-rays?

13 A. Well, after the -- after I'm at
14 Marcy, I went to Attica because I got -- I got into
15 something when I was in Attica. When I was in
16 Attica, P.O. Ness, I guess, talked to Attica and I
17 told them as well, let him know about my -- what's
18 stuck inside of me. They did an x-ray. They said
19 that nothing was inside of me.

20 After Attica, I waited two months. I
21 went down towards Downstate and Downstate was the
22 facility that seen metals -- Downstate was the
23 facility that seen the metal inside of me and they
24 did the right thing.

25 Q. Okay. When you say did the right

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2 thing, are you talking about an x-ray?

3 A. Say that again.

4 Q. When you said Downstate did the
5 right thing, do you mean Downstate did an x-ray?

6 A. Yes, they did an x-ray.

7 Q. Okay.

8 A. They see the metal inside of me
9 and they sent me up to a -- a real proper hospital
10 that literally that legitimately do their job. And
11 that's what I was trying to say.

12 Q. Okay.

13 A. Yeah, that's what I was trying to
14 bring your attention. You thinking I'm lying. Can
15 you send me out to the hospital and whatever -- I
16 guarantee you that they're going to say something.
17 They're going to see that there's metal inside of me,
18 and I'd even drop this whole lawsuit right now, but
19 I'm telling you right now that the outside hospital,
20 they're going to say that that metal was on there.

21 Q. Okay. So when you said you got
22 the x-ray while you were at Downstate?

23 A. Yes.

24 Q. What hospital did the x-ray?

25 A. Mount Vernon Hospital.

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2 Q. Mount Vernon?

3 A. Yeah.

4 Q. Okay. And the Mount Vernon
5 Hospital that did the x-ray found metal inside of
6 you. Where did they find the metal?

7 A. Inside my penis. Now --

8 Q. Anywhere else?

9 A. I swallowed a lighter, so I can
10 get the attention that I needed. I stuck some more -
11 - listen. I know I'm not going to lie here. I stuck
12 some more metal inside of me just so I can show them
13 all the stuff that's inside of me, so they can get it
14 out.

15 So when I stuck, I think it was a
16 staple inside of me, they see that amongst other
17 stuff that was in there that I've been saying that's
18 in there and that's when I got them to send me out.
19 So I had to do all that --

20 Q. Sorry. I didn't mean to
21 interrupt. Go ahead.

22 A. And so I had to go through all of
23 that just to prove to them that there's really a
24 whole bunch of metal inside of me that these people
25 have not been doing nothing for me.

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2 Q. Okay. Do you remember when about
3 the x-ray was done?

4 A. I know the incident happened
5 February 2nd. So February, March, April, I guess, I
6 was in -- I was in Attica. So I'll just say that all
7 this stuff happened around two thou -- of last year,
8 2021.

9 I don't know the exact month, so I
10 would say I have them 2021.

11 Q. Okay. But do you remember when
12 the x-ray was taken?

13 A. Do I remember when?

14 Q. Yeah.

15 A. I don't remember when, but I know
16 where it was taking at though.

17 Q. Okay.

18 A. Like I said, it's taken in Mount
19 Vernon. I don't know when though.

20 Q. Okay. So you said that you had
21 put a staple inside your penis prior to the x-ray.
22 How long prior to that x-ray?

23 A. I did it when I was in Downstate
24 on a contraband watch. I said, listen I got -- they
25 say -- they asking me why did I swallow a raz -- I

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2 mean, a lighter. Well, I said the reason why I
3 swallowed it is because I got two pen tips stuck
4 inside my penis and I need to get this out. Nobody
5 is doing nothing for me.

6 So that's why I put the staple --
7 well, that's why I swallowed it and that's why I put
8 the staple inside of me, so you could see all the --
9 everything that's -- to see what's inside of me and
10 send me out --

11 Q. Okay.

12 A. -- to do what they got to do.

13 Q. Okay. So is it your testimony
14 that you swallowed a lighter in order to get an x-
15 ray, so that they could see the objects inside of
16 your penis?

17 A. Yes, yes.

18 Q. Okay. I think I understand now.

19 A. Because every time I keep on
20 saying -- go ahead.

21 Q. Did -- after the x-ray, what was
22 the treatment given to you for the objects that were
23 inside your penis?

24 A. Well, when I was in Mount Vernon
25 Hospital, they said, oh, you want surgery? They say

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2 the doctor's going to come up here in a few days.
3 I'm like, yes. Then they see me there, I'm waiting
4 patiently. They discharged me and send me to Great
5 Meadow P.H.U.

6 And the C.O.s was telling me in the
7 van that -- that the superintendent or the sergeant
8 said that the reason why they discharged me was
9 because I was being an asshole, pardon my language,
10 but I wasn't even been an asshole because why would I
11 be a asshole when I got stuff stuck inside of me that
12 I'm trying to get out of me, and they just discharge
13 me.

14 Q. What -- what surgery did they
15 plan to do? Was the surgery for the lighter or the -
16 -

17 A. For the penis.

18 Q. -- other object?

19 A. For the penis, the penis. It was
20 for the penis, the metal object, yes.

21 Q. Okay. So did you ever get
22 surgery?

23 A. Not to this day, I haven't, no.
24 And I've been writing, writing, writing. I still
25 haven't got no surgery.

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2 Q. Have those objects come out yet?

3 A. No, they still stuck inside of

4 me. When I use the bathroom literally -- it

5 literally, I feel a sharp pain. Pardon me. I feel a

6 sharp pain. It's still stuck inside of me. They did

7 an x-ray here. The doctor told me, oh, as of right

8 now there's nothing inside of you.

9 I'm like it's impossible because the

10 outside hospital get stuff on record where there is

11 metal inside of me. So I have not received no -- got

12 no help.

13 And the only reason why these people

14 here help me because I was talking to PREA, and they

15 listen to phone calls. And they heard me saying

16 something to PREA and they want to act like they send

17 the email to them when that wasn't the case.

18 And they just, oh, say, oh, we heard

19 you say this, and they heard and that's what it was,

20 meaning that this is what occurred they're talking

21 about -- I got metal inside my penis and that's why

22 they want to make sure everything was all right.

23 Q. Okay. So there's no -- is there

24 any surgery scheduled at all?

25 A. I haven't had no surgery

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2 scheduled. I put --

3 Q. Okay.

4 A. -- to be honest, miss, I feel
5 that you would have to like have these people send me
6 to a real hospital so I can get real results because
7 these people here in prison they don't give us no
8 real result. They give us half -- half decent
9 medical care here.

10 Q. Okay. Did you get any more x-
11 rays after Mount Vernon?

12 A. To be honest, besides Mount
13 Vernon, I got an x-ray here. After that, not that I
14 can remember actually. Not that I can remember.

15 Q. When you say here, do you mean
16 Wende?

17 A. Yes. Wende Correctional
18 Facility.

19 Q. And do you remember when your x-
20 rays at Wende were?

21 A. Maybe probably like about few
22 weeks ago. I don't know the exact date, but it was a
23 few weeks ago.

24 Q. Okay. And did they find anything
25 on the x-ray two weeks ago?

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2 A. No, they said that according to
3 their x-ray, nothing -- nothing came up inside of me.

4 Q. Okay. Are you still feeling any
5 pain?

6 A. I can feel the pain for the whole
7 time. It's been only since February 2nd when I
8 literally -- when I urinate, I feel like a sharp
9 literally pain and sometimes my piss don't even come
10 out straight. It come out a different way.

11 Q. When's the last time that you
12 submitted a medical slip complaining about the pain?

13 A. To be honest, I -- when I first
14 came here, I put in sick call slips and after they
15 did the x-ray, I just didn't even bother with it here
16 no more because, like, they're not going to do
17 nothing for me.

18 Q. Okay. When did you first get to
19 Wende?

20 A. October 5th.

21 Q. Okay. So you submitted medical
22 slips when you got there after October 5th. How long
23 -- is that correct? Is that --?

24 A. Yeah, and I didn't receive no
25 help until I got to population because their excuse

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2 here is, they're always busy. Their business
3 consisted of sitting there gossiping and talking
4 about a whole bunch of nothing. And I received no
5 help until I got to population and -- and made a
6 phone call.

7 Q. Okay. When did you stop
8 submitting medical slips?

9 A. After I realized that they wasn't
10 going to help me. So I don't know when, but I just
11 stopped.

12 Q. Okay. Was it -- did you submit
13 them for a few weeks, a few months?

14 A. Like days at a time.

15 Q. Okay. When you say days at a
16 time, can you explain to me?

17 A. Let's say, I've put in a sick
18 call, today is Monday. I might write a sick call,
19 Monday, Tuesday, Wednesday, and I might give it like
20 a week break or two weeks break and then I might go
21 at it again like another two or three days type
22 things and then they doing nothing, so I just stop.

23 Q. Okay. So is it your testimony
24 that after the x-rays, they haven't given you any
25 treatment?

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2 A. Not any treatment whatsoever.

3 Q. Okay. All right. I think I've
4 asked you everything about that that I wanted to ask.
5 So now, we're going to go back to your extraction
6 from your cell, the day of the incident. Sure.

7 A. Can I get that or no? According
8 to New York State DOCCS.

9 Q. Okay.

10 A. Whenever -- whenever an incident
11 happens, right, a hearing is commenced. A hearing is
12 commenced to find out whether you're guilty or not,
13 right? So you listening?

14 A. I am, just turning it up.

15 Q. So -- so when a use of force
16 happen -- since I've been like the very time I get
17 into use of force, I go to a hearing, they find me
18 guilty.

19 So this incident happened in use of
20 force and the hearing officer, not even finishing up
21 the incident just dismissing a ticket, that shows
22 that the action that was done by the C.O.s is not
23 justifiable, it showed that I was assaulted for no
24 reason because if it actually was justifiable that
25 means that a hearing was commenced.

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2 Then in the hearing they would have
3 found me guilty. You -- you get what I'm saying?
4 And I also received my discipline record and the
5 incident that occurred is not even on a disciplinary
6 record because they tried to cover it up. Well,
7 yeah, it's not even on it because they tried to cover
8 it up.

9 Q. Okay. So let me take you through
10 that step by step. Your complaint says that you came
11 out of your cell and Defendants Banks and Johnson
12 used excessive force against you.

13 Is it your testimony that that
14 happened the same day that you inserted the pen tips?

15 A. Yes, ma'am. That happened the
16 same exact day.

17 Q. Okay. Why were the C.O.s coming
18 into your cell?

19 A. Because if I'm not mistaken, they
20 was taking me out because I said I was suicidal. So
21 I think they was taking me out either talk to the
22 nurse or maybe to O.B.S.

23 Q. Okay.

24 A. That was the reason why.

25 Q. Okay. And who opened your cell

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2 door?

3 A. Johnson, C.O. Correction Officer
4 Johnson opened up my cell door and he was the one --
5 no, Banks was the one that wrote the ticket, but he
6 wasn't the one that opened up my cell door. It was
7 Johnson that opened up the cell door.

8 Q. Okay.

9 A. And they try to say that they --
10 excuse me.

11 Q. Sorry. I interrupted you. Go
12 ahead.

13 A. And then, Banks tried to say that
14 they both grabbed me from behind in the state
15 building threw me on the ground face first. That was
16 a lie because how could I sit here and say that
17 Johnson grabbed me and threw me on the ground face
18 first, but then on a camera where the video it shows
19 that Johnson was picking me up and throwing me
20 towards the -- well it shows Johnson picking me up
21 towards the wall and he wasn't even around at the
22 time.

23 And then he says that I donkey kicked
24 him, on the camera. How can I donkey kick somebody
25 if I'm in handcuffs being picked up and thrown across

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2 the gallery, it doesn't make sense.

3 Q. Okay. So let me just ask you all
4 these things question by question, so we can get --
5 get a really clear record.

6 A. Okay.

7 Q. Did you push against the cell
8 door at all when it was opened?

9 A. What happened is, when the cell
10 door was open, he opened it and said that he tried to
11 push me in my cell. I push my feet outside the cell
12 because I'm in handcuffs.

13 If these C.O.s did that to me on
14 camera imagine what they would have been coming
15 inside that cell that day. I push my feet out my
16 cell, so he won't push me in my cell and do whatever
17 he do to me in handcuffs for my own protection.

18 Q. Are you saying that you were
19 already in handcuffs before the cell door opened?

20 A. Correct, because it's like this.
21 Whenever the C.O. -- when you were in the mental
22 health program, I'm on level -- I was in level two.
23 So I'm in handcuffs because they got to me tell me
24 turn around then they put the cuffs on my back.

25 So I was in handcuffs in the back when

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2 all this is going on. And that's when he opened up
3 the cell. And like I said, I'm restrained the whole
4 time.

5 Q. Okay. So you -- is it your
6 testimony that you placed your feet in the way of the
7 door to hold the door open?

8 A. So -- yes, I -- no. I put my
9 feet like out and I have my feet, like, can I show
10 you?

11 Q. Well, if you show me, it's just
12 not helpful to the transcript because --

13 A. Can I show you so you could give
14 a --?

15 Q. --it is not going to get written
16 down, so if you describe to me in words what
17 happened, that would --.

18 A. So I put my feet outside of this
19 -- the -- the cell stopping the C.O. from pushing me
20 in my cell in handcuffs. That's what I did.

21 Q. Okay. Why would you think that
22 the C.O.s would push you into your cell?

23 A. Because when I was in my
24 handcuffs, my hands behind my back. I felt the C.O.
25 put a pressure like he was trying to like -- I felt

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2 the C.O. put a pressure on the handcuffs trying to
3 push me in my cell.

4 Q. Okay. I think I understand. So
5 after --

6 A. Are there somebody --.

7 Q. -- after you placed your feet in
8 the way of the door, what happened next?

9 A. Well, it's not placed my feet
10 away the door to stop the C.O. from pushing me in a
11 cell for no reason, all of a sudden, C.O. Johnson
12 pick me up -- pick me up by my handcuffs in midair
13 and threw me sideways like a bow and arrow. I hit the
14 wall, and then I hit the -- and I just drop to the
15 ground, and I was just stuck. And they looking at me
16 --.

17 Q. Was C.O. Johnson alone when --?

18 A. Yes, C.O. Johnson was definitely
19 -- no, there was a lieutenant that was up there, and
20 he just looked at me and made a face like he didn't
21 do nothing.

22 Q. So is it your testimony that
23 Correction Officer Johnson was alone when he was
24 taking you out of your cell?

25 A. He was alone. Whenever C.O. take

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2 you out your cell, it's supposed to be two correction
3 officers that whole time. It was just him and there
4 was a lieutenant that was somewhere up the company or
5 around at that time.

6 Q. Okay. So is it your testimony
7 that there is a lieutenant that could see him?

8 A. Yes.

9 Q. Okay. And what was that
10 lieutenant's name?

11 A. I don't know his name. That's
12 why I just put lieutenant, but I didn't know his
13 name.

14 Q. Okay. So after C.O. Johnson took
15 you out of the cell, you said he threw you up against
16 the wall. What happened after that?

17 A. No, from -- from my cell where I
18 was at, he picked me up. He just tossed me like a
19 rag doll, literally like he toss me, and I flew
20 towards the -- I flew towards the wall, hitting the
21 wall with my head and then just dropped to the
22 ground. I literally flew across the company.

23 Q. What happened after that?

24 A. I would defer to the cameras,
25 everybody was saying stop resisting. C.O. Banks came

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2 running in saying stop resisting, stop resisting, he
3 then -- he stopped, he looked at other C.O., he
4 rushed in and grabbed me, then when he grabbed me, he
5 turned me around and he touched my butt, and that's
6 when C.O. Johnson came and restrained me for no
7 reason even when I wasn't resisting and that is the
8 end of the incident.

9 Q. When you say he turned you
10 around, does that mean that you were faced forward at
11 first and then they turned you around?

12 A. When -- when I got thrown in
13 handcuffs, I was on my side and then he grabbed me,
14 turn me around face forward.

15 Q. He turn you around face forward
16 so his -- his face was facing you?

17 A. No, I mean that -- let's say I'm
18 sideways, he grabbed and turn me on my face so I'm
19 facing the ground, face forward --

20 Q. Okay.

21 A. -- what I mean to say face
22 forward -- face forward toward the ground.

23 Q. Okay. And at that point, was it
24 just Correctional Officer Banks and Correctional
25 Officer Johnson restraining you?

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2 A. Yes, and that -- and there was
3 other C.O.s that was up there with them, whose name I
4 don't know but yes.

5 Q. When did the other C.O.s start
6 coming?

7 A. When they came, they were putting
8 the shackles and stuff on me.

9 Q. When -- at what point was that?

10 A. During the incident when I was on
11 the company.

12 Q. At what point during the incident
13 was that specifically?

14 A. After it was -- when Banks was
15 running up the company saying stop resisting and then
16 they had me on the ground and everybody else started
17 coming in with like the shackles and the handcuffs
18 and, yes, and that's when --.

19 Q. Do you know why they were saying
20 you were resisting?

21 A. Because this is what these C.O.s
22 do here. They say stop resist -- all right. I'm not
23 even going to say they're lying. In New York State,
24 any C.O.s say stop resisting so they can get a -- so
25 they can get their stuff on.

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2 So I could be doing right this -- I
3 could be -- I myself saying I'm doing everything
4 right, they open up my cell, you know, let's say this
5 thing is about to happen. I could be in my cell not
6 resisting because there is no cameras inside the
7 cell, any C.O.s would be saying stop resisting --
8 stop resisting, so they can get their stuff on and
9 make it seems like you are resisting because it's our
10 word against their word.

11 So what -- while they're in the cell
12 saying stop resisting even though you may not be
13 resisting. They are going to be doing whatever they
14 -- they could do to you until they feel like they are
15 done, and you're not really resisting and do --
16 that's the stuff that they do.

17 Q. Okay. Did they strike you at
18 all?

19 A. When I was -- on the way out that
20 -- all right. When I got a strike, yes. The reason
21 why I said I got strike because I -- when I got
22 picked up from my handcuffs, I got tossed towards the
23 wall.

24 Now, by me getting picked up and
25 handcuffed and thrown towards the wall, my head hit

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2 the wall, that's a strike right there. When I drop
3 to the ground -- all right, I'm not going to count
4 that but when the C.O. put his hands on me and turns
5 me around and they restrained me.

6 I got a strike because for one I
7 didn't do nothing that warranted all that amount of
8 force that was done to me. So yes, I got strike by
9 them, but then when he touched my butt. I was
10 sexually assaulted now because for one, if a ticket
11 was not -- if a hearing was not commenced or a
12 hearing was not completed for this incident, that
13 means by me taking off my clothes and me having a --
14 like I said, having to strip for them, you know, I'm
15 being sexually harassed and sexually touched. You
16 get what I'm saying?

17 Q. Okay.

18 A. And yes.

19 Q. So did you say anything to the
20 officers while they were in taking you out of your
21 cell and restraining you?

22 A. I didn't say nothing. I was just
23 quiet. I -- I only said something to the nurse. I
24 said -- I said what. I just took -- I just shook my
25 head at them and did --.

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2 Q. So is it your testimony that when
3 you put your feet in the way of the door, you didn't
4 say anything to the correction officer?

5 A. I didn't say absolute -- I didn't
6 say absolutely nothing. The C.O. never told me -- he
7 never gave me a direct order to stop or nothing. He
8 just pick me up and threw me across the room.

9 Q. Okay. When Correction Officers
10 Banks and Johnson were restraining you. Did they
11 ended up -- did they end up adding additional
12 restraints?

13 A. Yes, they add -- oh, they add
14 this --

15 Q. Is it only handcuffs?

16 A. Yeah, they add the shackles, yes.

17 Q. By shackles, are you talking
18 about ankle restraints?

19 A. Yes -- yes.

20 Q. Okay. All right. So now, I
21 wanted to ask you about -- you said you were sexually
22 touched. Do you know which Correction Officer
23 touched you?

24 A. Banks.

25 Q. Banks. And how do you know it

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2 was Banks?

3 A. Because I remember him seeing him
4 when he came running at the company because I was on
5 my side, and I could -- the way my body was I could
6 see everybody was coming up the stairs and I
7 specifically seen Banks that grabbed me, and he
8 sexually touched me.

9 Q. So how did -- how do you know it
10 was Banks and not Johnson?

11 A. Because Banks was the one that
12 flipped me over and he -- Banks was the one that was
13 -- that pretty much -- he put my legs up in the air
14 and folded them back like a pretzel, so he was doing
15 everything, he was controlling everything. Johnson
16 grabbed me a little bit, but Banks was doing
17 everything he wasn't supposed to be doing.

18 Q. Okay. Did ankle and wrist
19 restraints get connected at all?

20 A. Say that again.

21 Q. Did they connect the ankle
22 restraints and the wrist restraints?

23 A. They could if they want but in
24 this situation, it wasn't connected.

25 Q. Okay.

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2 A. And the only thing that could --
3 all right.

4 Q. Which of the officers put the
5 ankle restraints on you?

6 A. To be honest, I couldn't tell you
7 that but if it's my guess, I'll go with Banks, but
8 since I was in their face down, I can't really tell
9 you who put the handcuffs on me because there was a
10 lot of them.

11 Q. Okay. Were you face down on the
12 floor when you're -- when you were touched?

13 A. Yes.

14 Q. Okay. And can you just describe
15 how you were touched?

16 A. He touched -- he literally
17 touched my butt like because he was pulling down my
18 pants and then he was in there doing some funny shit
19 or funny stuff and he touched my butt.

20 Q. Okay. Can you just describe it
21 to me in a little more detail so that I understand
22 exactly how he touched you?

23 A. All right. When he turned me
24 around, he put my leg like in a pretzel position and
25 then he was in there pulling up my pants and he

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2 touched my butt. Not like full, he pulled --.

3 Q. What kind of touch?

4 A. Huh?

5 Q. What do you -- exactly how did he
6 touch it?

7 A. I mean in that like -- literally
8 that -- he was doing something funny with my pants,
9 he put his hand and he touched my butt.

10 Q. What kind --

11 A. When I was on the floor.

12 Q. -- do you mean like grabbing,
13 patting, like what kind of touch?

14 A. No, ma'am. I don't know how to
15 explain it but he just like this -- it was just weird
16 -- it was just weird -- all I know is he touch -- he
17 didn't grab it, but I know he touch it. It wasn't a
18 grab.

19 Q. Was -- how long would you say
20 that he was touching you for?

21 A. It was like a split second.

22 Q. Okay.

23 A. And then, yes, he had the look on
24 his face afterwards, but I didn't add that part in
25 the report but yes.

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2 Q. Did you say anything to him when
3 he touched your butt?

4 A. I mean, it -- it doesn't matter
5 what I say because you got to understand whenever
6 these -- in this environment, whenever these C.O.s do
7 something to us if it is sadistic or terrorist, it's
8 our word against their word. They are not going to
9 do nothing for us. So it doesn't matter if I say
10 something because nothing is going to get done.

11 Q. Okay. So it -- it --

12 A. That's the way it gets done.

13 Q. -- I think I understand. Is it
14 your testimony that you didn't say anything to C.O.
15 Banks when he touched you?

16 A. It -- I can't say that I'm just
17 going to -- I was going to put it all in the report
18 that's it.

19 Q. Okay. And you said he smirked at
20 you. Did you say anything in response to the smirk?

21 A. Yes, that's it. No I was just
22 quiet.

23 Q. Okay. Did any of the other
24 correction officers see him do that?

25 A. To be honest, even if they did,

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2 they are going to deny it because you got to look at
3 like this ma'am. With this incident that happened,
4 they didn't even want this incident to get to where
5 it's going right now because they try to say I never
6 filed a grievance, but that was a lie because Ms.
7 Medbury forwarded my grievance to O.S.I.

8 They lied about that. They said that
9 they restrained me and took me to the ground but on a
10 -- on the video it shows them pick me up and tossing
11 me across the company. That's two lies right there.

12 So if they have seen it or not, their
13 motto is, they are going to stick together, so --

14 Q. Okay.

15 A. -- that's the way it is.

16 Q. I'm just asking you as far as you
17 know. Do you know if they -- if anyone saw it?

18 A. I mean the -- I would -- I would
19 assume Johnson saw it but like I said, they are going
20 to deny it.

21 Q. Okay. How about any of the
22 incarcerated people? Did anyone in the cells see
23 what happened?

24 A. Yeah -- yes, you know, I could
25 say that my neighbors at the time that was close to

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2 my cell seen what happened.

3 Q. What are their names?

4 A. I don't know their names, ma'am.

5 I don't know their names.

6 Q. Okay. Can you describe what

7 Officer Banks looks like?

8 A. He's a old mental, pardon me --

9 he is old, he is white -- he is old, white, they got

10 him as gang intelligence and he works in Marcy

11 Correctional Facility R.M.H.U. and not only that he

12 has been involved in other cases, not only my case he

13 has been involved in. He has been involved in other

14 lawsuits as well so there are similar incidents.

15 Q. Okay. Is there anything you can

16 tell me about what he looks like, so I can tell him

17 apart from all the other C.O.s?

18 A. Well, he is a old white guy he's

19 -- he's old -- yeah, he is old white guy.

20 Q. Well, I imagine there is a lot of

21 white male correctional officers just --

22 A. Okay.

23 Q. -- can you tell me about him?

24 A. Gang -- he is gang intelligence.

25 That -- that -- that's better?

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2 Q. What I was just trying to get
3 from you -- if you can tell me what he looks like
4 physically?

5 A. I mean, he is skinny and old.

6 Q. Skinny. Does he have tattoos?

7 A. I mean, to be honest, I don't be
8 paying attention to that -- all that stuff, I don't
9 think so not that I could see.

10 Q. Would you be able to tell me that
11 C.O. Banks if I showed you a picture, for example?

12 A. Yes, I could.

13 Q. Okay. What color hair does he
14 have?

15 A. I think he got white hair --

16 Q. Okay.

17 A. -- if not, he might be bald, I
18 think he's bald.

19 Q. He might be bald? Is that what
20 you said?

21 A. Yeah. He -- he is bald, he got -
22 - he is bald, and he got white hair.

23 Q. Okay. What about glasses? Does
24 he wear glasses?

25 A. Not that I know of.

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2 Q. Does he carry a baton?

3 A. I mean, here and there but when I
4 see him, he don't.

5 Q. Okay. Is he tall or short?

6 A. He is taller than me.

7 Q. How tall are you?

8 A. I'm like five-six, five-seven.

9 Q. Okay. Is there anything else you
10 can tell me about him that would be good so that I
11 would know who he is if I look at him?

12 A. I mean, all you had to do is just
13 -- I mean, he works for DOCCS so I know his name is
14 Banks and he is a gang intelligence, so that probably
15 -- he is working -- he is working in the R.M.H.U. so
16 that part will help you to be able to know it all.

17 Q. Okay. How about C.O. Johnson?
18 What does he look like?

19 A. He is a -- he's fat, he got short
20 black hair, he's white and he's a regular over there.
21 He's probably working over there right now.

22 Q. Okay. So you can definitely tell
23 the difference between Banks and Johnson, right?

24 A. Yes you could, yes.

25 Q. Okay. All right. So let's move

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2 on to the next topic.

3 A. Can I ask you a question?

4 Q. Sure.

5 A. Now, with this video feed being
6 available like what's the possibility to being able
7 to press charges on those or I would have to have my
8 own lawyers do that?

9 Q. That's not something that I can
10 answer for you. I'm sorry.

11 A. All right. So but as far as the
12 video of me goes, now with that evidence being there
13 in a ticket and the use of force being in there,
14 like, we still got to go through most of that before
15 I even get issued a lawyer?

16 Q. I also can't answer that for you,
17 I'm sorry. I'm not very helpful in that direction.
18 I'm the attorney that represents the people that
19 you're suing.

20 A. Okay.

21 Q. So the questions you're asking me
22 are legal advice on your behalf, so I'm just not able
23 to answer that. Today's deposition is just --

24 A. All right.

25 Q. -- for me to ask questions so we

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2 have your recorded answers as for the lawsuit.

3 A. Okay.

4 Q. I'm sorry about that. So I
5 wanted to ask you about the misbehavior report that
6 you said you were issued.

7 A. Yes, that's what started this
8 case -- this lawsuit, yes.

9 Q. Okay. What did the misbehavior
10 report accuse you of doing?

11 A. It accused me of donkey kicking
12 C.O. Banks and then also in the ticket, it's stated
13 when I donkey kicked C.O. Banks that him and C.O.
14 Johnson grabbed me by putting his hands on my waist
15 or something like that and then -- they slammed me
16 face forward to the ground, that was their allegedly
17 complaint so that was the ticket.

18 Q. So what -- is it that's the
19 misbehavior report said you did wrong, just kicking?

20 A. Yes, the misbehavior report said
21 I donkey kicked Banks.

22 Q. Okay.

23 A. If I donkey kicked someone, you
24 will see my legs and if was to donkey kick somebody,
25 you would have seen my legs moving far out and you

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2 would have seen Banks stumbling back because he's
3 old. If I would have donkey kicked him, he would
4 have to have a medical report of where I donkey
5 kicked him at.

6 By him not having no written medical
7 reports after he stated that I donkey kicked him
8 shows that once again he is lying because anybody
9 that get kicked --

10 Q. Okay.

11 A. -- they are going to have a
12 bruise.

13 Q. Okay.

14 A. And they would be able to see the
15 bruise.

16 Q. Uh-huh.

17 A. And a donkey kick is important,
18 that's me standing with my hands behind my back. No,
19 that's me like this and lifting my legs, I'd be
20 kicking him with force.

21 So he -- if he say I donkey kicked
22 him, he was supposed to have injury photos and all
23 that, and he didn't.

24 Q. Okay. So was there a hearing for
25 your misbehavior report?

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2 A. Yes, there was. Ms. Medbury was
3 doing my hearing.

4 Q. Okay. Did anyone testify at the
5 hearing?

6 A. Nobody testified because the
7 hearing got dismissed. They tried to cover all their
8 stuff so they could do away the hearing.

9 Q. On what basis did it get
10 dismissed?

11 A. When I -- when I was in -- when I
12 was in -- when I was in Marcy I put in A.S.A.P., when
13 I got over here, the hearing is -- it never existed
14 no more and I'm like, oh, well, it -- it never
15 existed, so I'm like how are they going to write a
16 ticket like that, but yet it don't exist.

17 Q. Okay. So is it your testimony
18 that they did not hold the hearing for your
19 misbehavior report?

20 A. They did not -- they did not hold
21 the hearing because when I was here, Mr. Scott, you
22 remember this whole thing. Do you remember -- how
23 are you doing, do you remember when I was in I.I.C.P.
24 I asked you for my disciplinary record, right?

25 MR. SCOTT: I don't remember you do

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2 that.

3 THE WITNESS: I asked for my record --
4 .

5 BY MS. HANER: (Cont'g)

6 Q. I'm sorry. But your answers in
7 your deposition have to come from you, you can't ask
8 other people questions.

9 A. All right. So my answer is this.
10 I ask the counselor that's sitting right there for my
11 disciplinary record for the February 2nd incident --

12 Q. Uh-huh.

13 A. -- and then when I was here, my
14 hearing was finished, it would have been on my
15 disciplinary record. It wasn't on it, and I got a
16 copy of my disciplinary record. It wasn't on there,
17 again, either.

18 Q. So is it your testimony that the
19 misbehavior report was dismissed?

20 A. Dismissed. That's -- that's
21 correct, yes, it was never -- it was never found --
22 it started -- the hearing started, but it's never
23 finished, like they just threw it away.

24 Q. Okay. So were you disciplined as
25 a result of the misbehavior report?

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2 A. I mean. No, I wasn't -- I mean,
3 I was already in a bus but -- so another incident
4 happened where I grabbed a people and hit him in the
5 head with papers and stay at they moved me to Attica
6 G.P.

7 So I -- I got confine -- no, I got
8 time for that incident right there, but I never got
9 no time for that incident right there, that happened.

10 Q. Okay. So it's your testimony
11 that you were not disciplined in response to the
12 misbehavior report that they issued following the
13 incident you complained about?

14 A. The only -- the only way I was
15 disciplined was whenever use of force happened, they
16 keep me in a cell for E.C. -- I was E.C. for like
17 thirty days for no reason.

18 Q. What's E.C.?

19 A. Except for no circumstances.

20 Q. Okay.

21 A. So because of that incident
22 happening, they E.C.'d me for thirty days and I was
23 in my cell for thirty days and then that is -- the
24 incident where I got the people hit in the head with
25 papers happening and they moved me over to Attica

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2 G.P.P.

3 Q. Okay. So that's not disciplined
4 then?

5 A. Well, you mean for this incident,
6 right?

7 Q. Right.

8 A. Yeah. Then -- that -- I didn't
9 get disciplined.

10 Q. Okay. Thank you. All right, so
11 let's talk about grievances. Did you file grievances
12 accusing officers of using excessive force on you?

13 A. I mean, that's -- to be honest,
14 I'm not trying to be disrespectful but that just
15 common sense. I wouldn't ask for the lawsuit and not
16 file a grievance like I have to file a grievance in
17 order to start a lawsuit and in order to get
18 everything started.

19 Yes, I filed suit that within twenty-
20 one date of incident that happened, I filed the
21 grievance. I got seen by Ms. Medbury that works in
22 Marcy R.M.H.U. She forwarded my grievance to O.S.I.
23 and that same day she reported to O.S.I., I got seen
24 by O.S.I. that same day.

25 Q. Okay. A lot of the questions

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2 that I'm asking you, I do know the answers to
3 already, but what we are doing today is just getting
4 your answer on the record.

5 A. Okay.

6 Q. So I know that you might know
7 that I know the answers to the question --.

8 A. I understand, you're a State
9 Attorney General.

10 Q. Yeah, I just need to be -- for
11 today for you to answer the questions that I ask you
12 so that we have a record of what your answers are.
13 So I don't mean to be offensive asking you things
14 that you think are obvious --

15 A. Uh-huh.

16 Q. -- it's just to create a record.
17 So is it your testimony that you did file a grievance
18 against the correction officer for using excessive
19 force?

20 A. Yes, I did.

21 Q. Did you also -- did you also file
22 grievances against them accusing Officer Banks of
23 sexually touching you?

24 A. Everything that I stated was all
25 on my grievance.

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2 Q. Okay. And when did you file
3 those first?

4 A. Whenever I got home, within the
5 month of -- it happened February 2nd so after I got
6 out of O.B.S. like either on the 10th or around that
7 time, I started filing grievances to everybody. I
8 even wrote -- wrote complaints for my grievances to
9 outside agencies so they could have a copy of it just
10 in case the people in the facility said they didn't
11 have a copy, or I never filed them.

12 Q. Okay.

13 A. So I don't know exactly --.

14 Q. Okay, how do you file those?

15 A. Well, me, personally, I file
16 grievances like this. I have -- let's say I get
17 abused by an officer. I write the incident that
18 happened on paper since I know that the facility --
19 that the facility always stick up for even -- each
20 other, what I do is, I write to outside agencies like
21 Albany or I write to a whole bunch of people in New
22 York -- in Albany, New York.

23 I write to disciplinary, I write to
24 New York, I write to everybody I could think of and
25 then with the -- while I'm doing that I write to

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2 these people here, and I write carbon copy, so these
3 people say they didn't get the grievance it's -- it's
4 unbelievable, because not only you got the
5 grievances, there is outside agencies that got the
6 grievance as well.

7 Q. Okay.

8 A. So now, they got to file the
9 grievance.

10 Q. Okay. So when you file it with -
11 - you said these people here, what exactly do you go
12 with your grievance when you file it?

13 A. I mean, to be honest -- can I use
14 the bathroom?

15 Q. Yeah, of course.

16 A. Or I can't go? Can I go --?

17 Q. You have to answer the question
18 first and then you can.

19 A. All right. When I file my
20 grievances, I go to the Dep of Security, I go to the
21 Superintendent, I go to even the medical, I go to --
22 I write it to the counselor, I write it to I.G.R.C.,
23 I write it to O.S.I., I write it to -- basically,
24 everybody in the facility that I could write it to.

25 So can't nobody say that they didn't

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2 get a copy of it even if they -- no, they could say
3 they didn't get a copy of it, but I know somebody
4 going to ask about the complaint. So I write to
5 everybody in the facility.

6 Q. Do you file your grievances using
7 mail? Is that what you're saying?

8 A. Yes -- yes, I do. Yes or
9 sometimes because if I don't do -- if I don't do, you
10 wouldn't know. I might make a O.S.I. complaint or I
11 might call PREA and let them know, since pardon me,
12 since sometimes they play with mail, I'll make a
13 O.S.I. complaint and say, listen, I prepared this as
14 a form of a grievance and I let them know what's
15 going on and then forward it, they shoot it down here
16 and they saw I filed it.

17 Q. When you say --

18 A. So I go by the two different --
19 go ahead.

20 Q. You had your hand -- you had your
21 hand held to the side of your face like you're
22 talking about a phone when you mention O.S.I.?

23 A. Yeah.

24 Q. Does that mean that when you
25 complain to O.S.I. you call them?

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2 A. Yes, I called O.S.I., and I said
3 listen -- excuse me, I'm -- I would like to make a
4 complaint or grievance issue which is a complaint
5 because when I write grievances in the facility,
6 sometimes they don't get answered because they don't
7 want to answer, or they throw out the mail depending
8 on what issue it is. So I would like to make a
9 complaint which I can, and I explain to him the
10 incident that happened.

11 Q. Okay. Why don't you take your
12 break and go to the bathroom? Take your time.

13 A. Thank you.

14 Q. You're welcome.

15 THE REPORTER: Okay.

16 (Off the record, 10:30 a.m.)

17 (On the record, 10:38 a.m.)

18 THE REPORTER: On the record. It's
19 ten thirty-eight.

20 MS. HANER: Okay. Thank you.

21 BY MS. HANER: (Cont'g.)

22 Q. So we left off talking about
23 grievances.

24 A. Yes, correct.

25 Q. Are you able to appeal a

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2 grievance? Are you able to appeal a grievance
3 finding after you don't like the result?

4 A. Now, let's see, yes, you got
5 status. Let's say I filed a grievance based on
6 inmates, there is a -- pardon me no, no, yes. You go
7 -- they got a -- they got a process.

8 So let's say, I'll file a grievance
9 and list that doorknob, every time I turned the
10 doorknob my hand hurt. So now they can either -- so
11 they can either remove the doorknob or change it to
12 my liking.

13 That's how it could end, but they are
14 going to deny it. Once they deny it, there is an
15 appeal process where they -- they go for appeal or
16 they accept it, or they deny it, and send it back or
17 whatever. So now, if I say, I wish to appeal this, I
18 put it in a letter, sent to the Superintendent or I
19 put in a letter and send it to Albany. And I got to
20 wait within thirty days to hear a decision.

21 And now, I can further -- I can
22 further it by taking it to court as the final
23 decision. But yeah, that's how the processes usually
24 go. Now, as far as this situation where my
25 treatments got reported to O.S.I., I haven't heard

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2 nothing from them. I been seen by O.S.I. about other
3 complaints.

4 But I've been trying to bring up the
5 issues. Asking O.S.I. about other complaints and be
6 a witness is -- I've been bringing up the issues as
7 far as like, oh, what's going on with my grievances,
8 what's going on with the issue that's going on
9 because I still haven't heard nothing.

10 So I'm like, if I hadn't heard nothing
11 from them, then, I guess, it's still going on so I
12 can't really appeal it.

13 Q. So let me try to break that down.
14 Is it your testimony that if your grievance gets
15 denied, you can appeal it?

16 A. Yes, that's correct.

17 Q. And is it your testimony that
18 there is stages to appeal?

19 A. Yes, that's correct, yes.

20 Q. Is it your testimony that the
21 first stage of appeal is to the superintendent?

22 A. It's that people that don't know
23 how to send grievance to Albany, you got the stage
24 where you can submit grievance the superintendent and
25 keep it inside the facilities. Then the second stage

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2 is, you could send it to Albany, which is where you
3 work at and then have them make their final decision.
4 Yes, there is a process.

5 Q. Is it Albany O.S.I.?

6 A. They -- I know there is a
7 grievance person that works in Albany. That's the
8 person I'm talking about. I don't know the person
9 name. It was a grievance person within Albany.

10 Q. And then what about after that?

11 A. Then after that, once they give
12 me back the decision, let's say they denied it, you
13 could take it to court. I don't know the exact
14 motion you have to file, but you can take it to court
15 to get a Judge's final decision, if you want to go
16 that far.

17 If not, then you've got to deal with
18 the decision that the Judge would -- that Albany
19 order -- that Albany gives you.

20 Q. Okay. When you're talking about
21 Albany, you said it's a person --

22 A. Yes, it's somebody that --.

23 Q. -- and are you referring to the
24 Central Office Review Committee?

25 A. No there is a person that works

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2 in Albany. They sent the discovery that was looking
3 at the inmate grievance program something, but that
4 person right there.

5 Q. Okay. So how many times do you
6 get to appeal your grievance?

7 A. If I'm not mistaken, I think it's
8 like once or twice, correct me if I'm wrong.

9 Q. What's the last appeal that you
10 can do, to where?

11 A. You got to first -- it's like
12 this. Let's say I want to do this right now. I
13 broke my hand. I am writing to the facility
14 grievance, listen, I would like to let you know that
15 I broke my hand. I haven't received no medical
16 attention.

17 They -- they -- they write me back
18 saying they denied it because they said I didn't
19 break my hand. All right. So now, they denied it, I
20 go over to Central Office Review Committee, or I go
21 to I.G.R.C. then Central Office Review Committee,
22 which is in Albany, and wait for my final answer.

23 They deny me, I could take it to the
24 Court from there. So I'll say there is three
25 different stages.

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2 Q. Okay. Thank you. That's

3 helpful. Did you appeal your grievance?

4 A. Now, as far as on this grievance

5 issue right here. When I wrote my grievance, that

6 Ms. Medbury came to see me. She said she forwarded

7 my grievance to O.S.I.

8 Now, by her saying she forwarded my

9 grievance to O.S.I., that means my grievance

10 complaint is in O.S.I. hands. Now, I did wrote

11 O.S.I. numerous times about this issue. I even

12 called O.S.I. like a few weeks ago on a Monday about

13 this issue that's going on.

14 They -- they forwarded my complaint to

15 Mr. Pavlik. I don't know his real name, but I don't

16 know if I'm even pronouncing it right. So they said

17 he forwarded my grievance to them that he would get

18 back to me.

19 So I've been keeping up, trying to get

20 in touch with them for a whole year about this issue

21 right here and I have not heard nothing from them.

22 So I did my part. And like I said, by the -- by her

23 forwarding my grievance, I can't do nothing until I

24 hear something back from O.S.I. Now, that's not my

25 fault.

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2 Q. Okay. So is it your testimony
3 that you didn't get any decision back from the I.R. -
4 - I.G.R.C. when you appealed?

5 A. No, I didn't -- I didn't get
6 decision back from O.S.I. because like I said, when I
7 wrote those grievance inside the facility, the Dep
8 Ms. Medbury came and handed me an envelope like this,
9 and she interviewed me and she said I'm forwarding
10 your complaint to O.S.I., and I have not heard
11 nothing about my complaint since.

12 Q. Okay. Did you get any decision
13 on your grievance from the Central Office Review
14 Committee?

15 A. I have never gotten a decision
16 from them regarding this complaint. And it's been
17 going on for a year and I haven't gotten nothing from
18 them. Even after I reminded them by writing them and
19 call them, I have not received nothing.

20 Q. So is it your testimony that you
21 did not receive a decision on any of your appeals?

22 A. As far as for this issue right
23 here that got forwarded, yes.

24 Q. Okay.

25 A. Any other complaint I send --

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2 Q. Go ahead.

3 A. -- any other complaint that I
4 sent, I received a decision. I think it's because
5 she forwarded the issue to O.S.I. and, I guess, it's
6 still ongoing with everything so that's why I didn't
7 hear nothing back from them.

8 Q. Okay. And when did you appeal
9 your grievance?

10 A. I never got -- I never got the
11 chance to appeal it because I haven't heard nothing
12 from O.S.I. The day I got seen by O.S.I. when I was
13 -- it was in the month of February. She forwarded my
14 grievance to literally to O.S.I., the agency that
15 works at Albany, the Dep, Ms. Medbury, and I can't
16 appeal nothing, if they don't say nothing to me, if
17 they won't send me nothing.

18 Q. Okay. So is it your testimony
19 that you did not have your initial grievance denied
20 or accepted, sent you --

21 A. No.

22 Q. -- nothing at all?

23 A. My -- my initial grievance got
24 accepted because Ms. Medbury interviewed me. She
25 told me to check off the line that she read my

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2 grievance to me, which she did, and she forwarded the
3 grievance to O.S.I.

4 By her forwarding it to O.S.I., I
5 mean, I got to wait for them to respond back in order
6 for me to appeal it and they never responded back.

7 Q. Okay. So is it your testimony --

8 A. So it's not my fault.

9 Q. -- you didn't receive a decision
10 on your initial grievance?

11 A. Correct. Exactly, correct.

12 Q. Okay. And when was your initial
13 grievance filed?

14 A. In the month of February, after
15 February 2nd, when the incident happened.

16 Q. Okay. Thank you. So I was
17 taking a look through the file, and I just had some
18 questions for you. Did you get interviewed by a
19 Sergeant Combs while they were investigating your
20 complaints?

21 A. Yeah, I got interviewed by a
22 sergeant. He asked me what happened and stuff. And
23 I told him what happened. He said, well, it looked
24 like, if I'm not mistaken, he said it looked like you
25 kicked the C.O. I'm like that's the -- wait,

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2 sergeant, that's the -- yeah. That's what one of the
3 sergeant's said.

4 Q. Okay. Did you tell Sergeant
5 Combs that you only accused Officer Banks of touching
6 your butt because you felt like the force used
7 against you was for no reason?

8 A. Listen, I've never told him
9 nothing. They're going to state what they want to
10 state because at the end of the day, I never told
11 him.

12 I never -- I never even told him about
13 him sexually touching me at all. At the end of the
14 day, I told him about me getting picked up and
15 handcuffed and thrown, if anything.

16 So if he wanted to say that's the only
17 reason why I said that that's -- that just shows that
18 the certain officers is speaking to the C.O., because
19 like I said, whenever use of force happened, a ticket
20 is supposed to be written, right.

21 Whenever a ticket happens, a hearing
22 is supposed to be commenced. So at the end of the
23 day, if they was all doing their job the right way, a
24 hearing would have happened, and I would have been
25 found guilty and none of this stuff right here was

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2 being going on so all he -- the Sergeant is doing is
3 sticking up for the C.O. I never once told the
4 Sergeant nothing like that.

5 Q. Okay. So is it your testimony
6 that you never told the Sergeant about being sexually
7 touched?

8 A. No, I told him about the pen tips
9 being stuck inside of me.

10 Q. Okay. And is it your testimony
11 that the sergeant did not ask you questions about
12 being sexually touched?

13 A. No, the Sergeant didn't, as a
14 matter of fact. They said I'm lying. The incident
15 did happen. After I got investigated, they brought
16 me inside the medical room and ask me what happened.

17 I told that I was sexually touched.
18 And they had like a urine thing, they said where did
19 you get sexually touched at, I'm like my butt or
20 something and they was like, do you want to produce
21 any evidence.

22 I'm like, I told them, I would never
23 give you all no type of evidence because all you're
24 going to do is get the evidence and get the C.O. All
25 they were going to do is give it to the sergeant and

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2 they're going to get rid of it, and that's what I

3 said in the room.. Yeah, I've never said that.

4 Q. Go ahead. Was Sergeant Combs in
5 the room when you said that?

6 A. If I'm not mistaken, sergeant and
7 a C.O., but I can't remember every little thing that
8 happened because it had been about a year, so I can't
9 remember every little thing.

10 Q. Okay. So is it your testimony
11 that you don't remember if it was Sergeant Combs in
12 the room?

13 A. It is my -- it's my -- it's my
14 testimony that I don't remember everybody that was in
15 the room because it's been a year since the incident
16 happened.

17 Q. Okay. So while we're talking
18 about medical, you -- you had told me that the
19 officers, when they took you out of the cell, they
20 hit your head on the wall. Was your head injured at
21 all?

22 A. I stated -- I stated that C.O.
23 Johnson picked me up by my handcuffs, threw me like a
24 rag doll, my head hit the wall, when my head hit the
25 wall, I dropped to the ground. That's what I said.

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2 Q. Okay. Did you have any injury to
3 your head?

4 A. Yeah. I had injury to my head.
5 I was hurting that whole -- that whole day and then
6 when I had the pen tips stuck inside of me, I was
7 even more in pain but once again, I was denied
8 medical attention.

9 Q. Did you tell Nurse Doroco when
10 she was examining --

11 A. I told her.

12 Q. -- you that you had an injury to
13 the head?

14 A. Yeah. I didn't tell them the
15 head thing --

16 Q. Okay.

17 A. -- but I just told her about the
18 pen tips but even if I would have told her about me
19 having injuries to my head, she still denied me
20 medical attention because she was covering up for the
21 C.O.s. So regardless of what the issue is, I still
22 would have received no help.

23 Q. Okay. All right. So let's
24 change to a different topic. Thank you. So I just
25 wanted to ask you, did you file PREA complaints

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2 against other people in the past?

3 A. To be honest, I always file PREA
4 complaints against C.O.s because while we are in
5 prison they'd be doing a whole bunch of stuff they're
6 not supposed to be doing. They could put me on a
7 wall. They put their ands between my -- they could
8 put their hands between my ass, pardon my language.

9 They could put me on a wall, and they
10 could grab my balls, part of my leg. That's the type
11 of stuff they -- that goes on here. And sometimes,
12 I'll admit, I write PREA complaints because when they
13 mess with me, I know a PREA complaint will get them
14 off me.

15 So I'll write up a PREA complaint
16 saying he is looking at me sexually or whatever, and
17 they leave me alone. I don't do it all the time, but
18 I do it when it's needed.

19 Q. Okay. Have you ever field a PREA
20 complaint where you were legitimately sexually
21 assaulted in any way?

22 A. I mean, I think I have, yes, but
23 the only thing is whenever I filed a PREA complaint,
24 they don't do nothing about it because they feel that
25 I do it all the time just to be an asshole and I have

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2 no evidence.

3 So now, I'm like, all right, so I made
4 a PREA complaint recently and stated I got actual
5 evidence, which is the D.V.D. and yeah. And now,
6 it's like this, a PREA complaint is when you're
7 sexually touched or being sexually harassed.

8 Like I said, once again, the reason
9 why I can say that I'm being sexually -- I was
10 sexually touched because it -- it was like -- all
11 this happened to me for no reason, and I was forced
12 to take my clothes off and by them putting their
13 hands on me when this wasn't warranted.

14 I'm sexually touched by him telling me
15 to turn around or by him turning me around and
16 touching me how they're not supposed to touch me. I
17 can say that he is sexually touching me because that
18 action was not warranted to begin with.

19 Q. So is it your testimony that --?

20 A. I can't hear you.

21 THE REPORTER: Yeah. Your mic just
22 went quiet right now, Ms. Haner, right when you
23 started your new question after -- after he finished
24 his answer.

25 MS. HANER: Okay now?

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2 THE REPORTER: It's still pretty
3 quiet. You might have to -- what you can do is if
4 you want to try talking loud again like we did last
5 time. I'll tell you when it -- if it goes back to
6 normal if and when, that way you can.

7 MS. HANER: Can you hear me fine now?

8 THE REPORTER: It's enough on my end
9 to pick it up through the mic. You would be pretty
10 quiet. But I don't know if mister -- Mr. Blanford
11 can hear you.

12 MS. HANER: Can you hear me okay?

13 THE WITNESS: I can hear you a little
14 bit. You got -- hello.

15 MS. HANER: Yeah. I hear you guys
16 just fine. I don't know.

17 THE WITNESS: All right. She can hear
18 us.

19 MS. HANER: But can you hear me?

20 THE WITNESS: Yeah, I can hear you.

21 BY MS. HANER: (Cont'g.)

22 Q. Okay. So is it your testimony
23 that because excessive force was used, that makes the
24 touching of your butt a sexual touch?

25 A. No, this -- this is what I'm --

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2 this is the testimony that I was saying. My
3 testimony is like this. If I hit a C.O. on camera,
4 and they decide to restrain me, and a hearing
5 happens, and I'm found guilty, I can't even say
6 nothing.

7 So because it's excessive use of force
8 happening, and they touched me for no reason. Yes, I
9 can say that I got sexually touched because, once
10 again, an excessive use of force was done to me when
11 I'm in handcuffs presenting no threat whatsoever.

12 And how they did it, they weren't
13 supposed to do it. And once again, by me having gone
14 to the strip frisk room, they take my clothes off for
15 no reason. I can use -- yeah, I'm sexually touched.
16 I'm being sexually harassed, because why? This
17 ticket is not even in -- on record.

18 Only is -- it's only on me and this
19 lawsuit record right now. So yes, I can say I'm
20 being sexually touched and I'm being sexually
21 harassed.

22 Q. Okay. So is it your testimony
23 that because force was used when it wasn't necessary,
24 it makes touching your butt a sexual touch?

25 A. That's a fact, it does, because

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2 that's like saying, if you was in this situation --
3 I'll put it like this. The reason why I state that
4 is because I've got -- in prison, you have rules and
5 regulations that you got to follow.

6 I don't care if it was a C.O. or a
7 Superintendent or not, you got rules that you got
8 follow. There is a package called a Tier Three
9 hearing package.

10 Whenever an incident occurs, they're
11 supposed to write a ticket. Like I said, once again,
12 the ticket, no, the hearing officer determines if you
13 are guilty or not, by the hearing officer not even
14 finishing this hearing that started says a lot.

15 It said that that the stuff that they
16 did is not justifiable. It doesn't matter what the
17 Defendant is saying because why? For one, there is
18 no record that this hearing ever even existed. There
19 is no record of this ticket ever even existed.

20 So therefore, it doesn't matter what
21 the Defendant say because they -- they -- they didn't
22 complete the hearing at all. They didn't go through
23 with the hearing.

24 Q. Okay. So is it your testimony
25 that your misbehavior report hearing did not

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2 conclude?

3 A. They did not conclude, yes.

4 Q. Okay.

5 A. Meaning, they did not finish,
6 right?

7 Q. Right.

8 A. Yes. That's the only reason why
9 I stated that they did all of this, yes.

10 Q. Okay. So then I just had sort of
11 another question. Did you ever write threatening
12 letters to Correction Officers at their home
13 addresses?

14 A. Now, listen, I'm not going to lie
15 to you. I know how to get these C.O.s' addresses.
16 Yes, I did that. When I'm in the bus everybody
17 knows, listen, you probably know the stuff that goes
18 on in here. We know stuff that goes on here.

19 Now, when I was in Great Meadow B --
20 when I was in Great Meadow B.H.U. I was in my cell,
21 the C.O.s was in there, denied me my trays, they was
22 playing with my meal, they violated my property -- as
23 far as violation, I mean, they went in my cell and
24 threw my -- all my property out.

25 So I'm like, you know, what, if you

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2 want to sit here and play with my food for no reason
3 and I'm not being -- I never did nothing wrong to
4 you, I'm going to get your address. Now, my thing is
5 this.

6 Pardon me. What I'm saying is this,
7 public information, the -- it's all right for these
8 people to have everything about us, right? These
9 people are strangers to us. It's not right for them
10 to have our Social Security Numbers, our home
11 addresses, it's not right for them to have our family
12 members' information when they come to see us on a
13 visit.

14 So if everything is public
15 information, I can get their address as well. So
16 what I do is, whenever it's necessary, I get the
17 C.O.s' addresses that's harassing me, and I'm not
18 going to lie, I'll write them and keep on harassing
19 them, write to their house until I get in trouble.

20 Because why? I tell them, stop
21 messing with me and it's -- you're not going to like
22 it when I mess with you back. So at the end of the
23 day, that's no -- as far as, you know, that's just
24 the C.O.

25 Now, the lady that worked in Marcy

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2 R.M.H.U. -- can you hear me?

3 Q. I can hear you.

4 A. There was a female that worked in
5 Marcy R.M.H.U. called me a jerk and you refer to that
6 letter as well. Now, the only reason why that
7 happened is because -- you're listening?

8 Q. I am.

9 A. The only reason why that happened
10 is because when I was over there, I got some stuff
11 that I was doing in the street that's on the
12 internet, and when we hear these people are not
13 supposed to sit here and go on the internet. Am I
14 correct? Miss, am I correct, right?

15 Q. How would we know that?

16 A. All right. So these people are
17 not supposed to use the internet according to the
18 employee manual and this -- and the rules and
19 regulations.

20 So when I was in Marcy, the lady that
21 served me, I caught a ticket, whatever. She, I
22 guess, she looked me up and she see whatever I was
23 doing in the street.

24 She gave me a compliment about
25 whatever. In my mind, all right, whatever. I think

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2 she was hitting on me. So -- so someway, somehow, I
3 received her address, and I wrote her, and she
4 reported me. I never told this lady nothing about
5 me. So --.

6 Q. Okay. How did you get her
7 address?

8 A. I mean, to be honest -- whose
9 address?

10 Q. Ms. Czeries?

11 A. Hers?

12 Q. Yeah.

13 A. Now, to be honest, the same way
14 how I get everybody else address. There is a website
15 called Whitepages. They couldn't stop it. It's been
16 out there for years.

17 So at the end of the day, I just go,
18 well, yeah, it's a website called Whitepages. I just
19 go on there and whatever, because at the end of the
20 day, my thing is this. If you go out of your way and
21 look me up, and gives -- and going through search
22 stuff, you're not supposed to go through it and tell
23 me about I think you're hitting on me.

24 So therefore, if I hit on you, I'm not
25 in the wrong because you should have kept your mouth

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2 shut because I don't care about you. You get what
3 I'm saying? So that's -- that's the only reason why
4 that happened.

5 Q. Okay. All right. I'm almost
6 done with my questions. I just want to go over my
7 notes and make sure I didn't miss anything. Do you
8 mind if we take like a ten-minute break just so I can
9 look through my stuff? That's okay?

10 A. Yeah. That's okay.

11 Q. Okay. So we'll reconnect in ten.

12 A. All right.

13 THE REPORTER: Okay. We're off the
14 record.

15 (Off the record, 10:59 a.m.)

16 (On the record, 11:19 a.m.)

17 THE REPORTER: All right. We are on
18 the record.

19 BY MS. HANER: (Cont'g.)

20 Q. Okay. So you were telling me
21 about an incident when you were x-rayed at Mount
22 Vernon Hospital. You said something about a lighter?

23 A. Yeah. I swallowed a --

24 Q. Can you hear me?

25 A. Yeah, while I was on the bus.

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2 Yes, I can hear you. Can you hear me?

3 Q. Yeah.

4 A. I swallowed a lighter.

5 Q. Are you talking about a lighter,
6 like a Bic lighter?

7 A. A Bic, yeah, yeah, yeah.

8 Q. How did you get a Bic lighter?

9 A. I'll put it like this. I had to
10 do what I had to do to put the spotlight on me. I'm
11 not going to say how I got it, but I can get whatever
12 I want to get when it's necessary for me to get it.

13 Q. Okay. All right. Fair enough.
14 And we -- we talked about this a little bit before.
15 I just want to make sure I get the details right.
16 You said that what you inserted into your penis was a
17 pen tip, like the tip of a pen cap?

18 A. It was two pen tips, yes.

19 Q. Okay.

20 A. So I -- when I was in Downstate,
21 I put a staple inside my -- I swallowed the metal
22 wheel, so they can see the stuff inside of me but
23 then I put a staple inside my stuff so they can see
24 that there is actually metal inside of me. And that
25 right there is what proved that I had all metal

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2 inside of me.

3 Q. Okay.

4 A. So they could do an x-ray.

5 Q. The -- when we're talking about a
6 pen tip, are we talking about like the tip of the cap
7 of a pen or the writing tip?

8 A. You see that, the writing part,
9 you see that pen, that you're holding.

10 Q. Okay. It was like the writing
11 tip.

12 A. Yes.

13 Q. Okay. So what you inserted was
14 two metal tips of the writing tip of a pen?

15 A. But those tips don't show up on
16 the x-ray, they show up in the hospital machine
17 because the hospital got the right machines. Well, I
18 don't -- I can even say if there is -- it showed up
19 on the machine in Downstate, but yes.

20 Q. Okay. So they're metal, they're
21 made of metal?

22 A. I mean, they say they didn't show
23 up on this record here but in the outside world, they
24 showed up on here, so I don't know if it's made of
25 metal or not, but all I just know is I put a staple

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2 inside my thing and when I was in the outside
3 hospital, they seen all the -- everything that was
4 inside of me.

5 Q. But the pen tip that you
6 inserted, it's the size of a pen where the ink comes
7 out, right?

8 A. Yeah, yeah, yeah, yes.

9 Q. Okay. And where did you get that
10 pen?

11 A. Oh, I was in a box, so I had the
12 -- it's the box pen.

13 Q. Like their property, the box?

14 A. Yeah, yeah.

15 Q. Okay. So let me just ask you and
16 I know I asked you this before. Why did you put the
17 -- the pen tips in your penis originally?

18 A. Because I was -- I was going
19 through a mental health crisis and I was mad about
20 something and that's when I did that.

21 Q. So can you explain a little bit
22 more? You did it because -- I know you said you did
23 it because you're mad but were you trying to get
24 something out of it?

25 A. I was -- I was pissed off and I

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2 get mad. I do stuff without thinking and I did that.
3 And I told them that I need -- I need them to get
4 this out of me, you know, I need to go to the outside
5 hospital, and I said, you guys want to take me out
6 there, and they said, no, you're not going over
7 there. That's pretty much what it was.

8 Q. Did you --?

9 A. I was not trying to get nothing -
10 -

11 Q. Well, you said something about an
12 outside hospital. Were you -- did you -- were you
13 trying to go to a hospital?

14 A. No, I was just mad but when I put
15 it in there, I realized that it didn't come out and I
16 was like, oh shit, they got to go, they got to take
17 me to the outside hospital now. I didn't plan on
18 going out there. I was just -- yeah.

19 Q. Okay. So are you saying that
20 when you put the pen tips in, it was just self-harm,
21 it wasn't trying to get anything?

22 A. It was -- it was self-harm. It
23 was originally self-harm, yes.

24 Q. Okay.

25 A. I put the pen tip --

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2 Q. Were you self-harming for a
3 reason?

4 A. Because the C.O. was doing some -
5 - yes, they were. They had no reason to be doing.
6 So I was trying to self-harm myself so I can get to
7 them, but at the end of the day, I realized that
8 that's going to get me in trouble. So I just said,
9 yo, listen, I got two metal pen tips stuck inside of
10 me, I need to go to the outside hospital, and they
11 refused it.

12 Q. What do you mean get to them?

13 A. Meaning that -- like I said, I
14 want -- like I said before, I want to talk to them
15 and say listen, get them to respond, like what's
16 going on, like if I feel they're playing with me, I
17 was going to be playing with you. That's why I was
18 doing it, that type of -- that type of thing. But
19 like I said, yeah.

20 Q. Are you saying that you put the
21 pen tips in there to get the officers to talk with
22 you?

23 A. No, I put that in there because I
24 was going through a mental health crisis. Before
25 that, I was pissed off and that -- that was something

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2 different. The pen tip because I was going through a
3 mental health crisis.

4 Q. Okay. So it's your testimony
5 that the pen tips were not inserted for you to try to
6 get anything or to get moved or anything like that?

7 A. Well, because at the end of the
8 day, I'm going to -- I'm going to be in prison
9 regardless. So it don't matter if I go to another
10 facility, I'm still going to be in prison.

11 Q. Okay. All right. So when you
12 were seen by medical for the pen tips. They decided
13 -- you said -- you testified earlier that the nurse
14 told you to take the tips out yourself?

15 A. Yes.

16 Q. What is it that you think that
17 the nurse should have done instead?

18 A. According to the prisons, we got
19 rights. We got the right to freedom of speech, you
20 got the right to adequate medical care treatments.
21 If I need the nurse --

22 Q. What do you think was adequate?

23 A. Adequate medical care treatment
24 would be the nurse sending me out to the outside
25 hospitals so they could remove the pen tips from me

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2 because any nurse that's -- that come and says -- or
3 any nurse that knows how to do their job, that knows
4 about the constitutional rights, and stuff like that,
5 they know that we're entitled to adequate medical
6 care assistance.

7 By her telling me, take it out myself,
8 that is -- now it turns into a medical neglect issue.
9 And now by her doing that, this is still inside of
10 me, when she had the right, when she could -- when
11 she had the right, she could have sent me down to the
12 outside hospital because whenever a nurse is on, she
13 don't have to get permission from the doctor because
14 all you got, for example, this is -- let's say this
15 is reception I put metals in my penis.

16 She is going to do what she got to do
17 to make sure her job is done right, and she is going
18 to talk to whoever they send me out to -- they send
19 me to the outside hospital. But in this situation,
20 it didn't happen. She literally said with
21 aggression, take it out yourself.

22 Q. So the treatment, if that -- is
23 it your testimony that the treatment you think that
24 was adequate was for the nurse to have removed the
25 pen tips or sent you to have them removed

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2 immediately?

3 A. Yes, she should have sent me to
4 have them removed but, yeah, the only reason why she
5 did something about it because O.S.I. came and I
6 started making the situation -- I started exposing it
7 and that's what she put the urethra in because why is
8 it that you wait two or three -- I mean, a few weeks
9 later to do a urethra, put a urethra inside of me
10 when you could send me out to the outside hospital.

11 So you knew that there was something
12 inside of me, but you put the urethra inside of me.
13 So if you knew that, why wait so, therefore, yes, she
14 was supposed to do --.

15 Q. Okay. So is it your testimony
16 that it would have been adequate medical treatment if
17 the nurse had sent you to the hospital to get them
18 removed that day?

19 A. Exactly. They would have sent --
20 yeah, it would have been adequate if she would have
21 sent me to the outside hospital, they would have
22 found not only was it true, what I'm saying is true
23 about me putting the metal -- metal pen tips in my
24 penis not only there would have been on record, and
25 they would have seen it, and they would have been

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2 able to do something about it.

3 Q. Okay.

4 A. So these -- they could -- they
5 could say that they were going to pass all they want,
6 but their word don't mean nothing because, once
7 again, we did have -- we did have medical treatment.
8 So she was supposed to send me out to the outside
9 hospital, but she never did.

10 Q. Okay. So you testified earlier
11 that a few weeks after you inserted the pen tips,
12 they did something medical to try and get them out.
13 Can you continue --

14 A. Yes, they had --.

15 Q. -- what that was?

16 A. It was a urethra thing ,it's on
17 my medical right there. I got to do it myself. It
18 was like a pink urethral that they stick inside the
19 penis. She did -- she had a big tube.

20 She put a lube -- some type of lube --
21 lubricant -- she lubed it up. She pushed it in my
22 pee hole and try to get whatever was in out of it
23 like two or three weeks later and nothing came out.

24 So by her doing that, she know that
25 something was inside me because she is not going to

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2 do that for no reason.

3 Q. You're saying utheter -- does
4 that -- are you referring to like a catheter maybe?

5 A. Yeah. That's what I mean. I
6 probably pronounce it wrong. Yeah, catheter.

7 Q. I don't know if I'm right either.
8 I'm asking you. I wasn't there.

9 A. Well, it's the medical -- it's in
10 is my medical report.

11 Q. Okay. So you -- you said that
12 they had told you it will pass? Who told you it will
13 pass?

14 A. That's what I keep on saying.
15 She told me that, the doctor told me that, that they
16 took a urine sample. Oh, it will pass. There is no
17 possible way that little pen tips can be stuck inside
18 the penis.

19 I'm like, you serious, I could put
20 metal inside my penis right now. It is not going to
21 come out once it's inside, it's inside. That's what
22 I kept on saying.

23 Q. Who -- what doctor did you see
24 that told you that?

25 A. The lady that issued the urine

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2 sample. I don't know her name.

3 Q. Did she say that at the same time
4 that they tried to drain the object?

5 A. No, it was two different -- two
6 different incidents.

7 Q. Okay. So tell me when the doctor
8 told you that?

9 A. She told me that on a separate
10 incident that, oh, it's going to pass, and she told
11 me it's no possible way that metal could be stuck
12 inside -- inside of you. That's what she said
13 literally. And she was sitting there feeling it, and
14 she was like, I don't even feel it.

15 Q. But when was that that the doctor
16 said that?

17 A. Around the month of February.
18 February -- between February and March.

19 Q. Okay. How many times did you see
20 a doctor?

21 A. A few times to get x-ray. A few
22 times to get x-rayed. Actually, I've seen it in
23 Marcy. From Marcy, I went to --

24 Q. I'm sorry. Can I ask you my
25 question differently, so I don't -- I don't want to

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2 be confusing? How many times did you see a doctor
3 just for the pen tips?

4 A. Marcy facility, I've been there
5 for a month, I went to Attica. So Marcy is one time.
6 Attica, I went to it, two times. They told me
7 nothing was inside of me.

8 From Attica, I went to Downstate.
9 Downstate, they say there was stuff inside of me.
10 And then they sent me to Mount Vernon Hospital. The
11 doctor over there was going to do surgery, so four
12 times.

13 Q. Okay. Let me get that. All
14 right. When they did the x-ray at Mount Vernon, you
15 said that they saw objects inside of you, but you
16 also said that you put a staple in there. So did the
17 x-ray show the staple and the pen tips?

18 A. I guess, who knows, in Mount
19 Vernon, I think they did a full -- they did a CAT
20 scan and everything. So I don't know what type of
21 technology they have but they said whatever they had,
22 they just see everything inside the body.

23 Q. Okay.

24 A. Technically, here they can so
25 whatever it is, all I know is they see -- that they

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2 seen -- they seen stuff inside me.

3 Q. Do you know whether they saw the
4 pen tips specifically?

5 A. I don't know, but all I just know
6 is they seen something.

7 Q. Okay.

8 A. They seen something inside.

9 Q. Okay. Have you -- have you been
10 using -- I'm sorry. You said they scheduled you for
11 surgery.

12 A. Yeah. They scheduled me for
13 surgery when I -- say that again.

14 Q. Was that for the lighter?

15 A. No, that's for the metal in my
16 penis. When I had metal in my penis, they scheduled
17 me for surgery. When I was supposed to get the
18 surgery, they discharged me, and I went on my way to
19 Great Meadow B.H.U.

20 They say they discharged me because
21 they said that, oh, I was being a asshole. I wasn't
22 even doing -- I was waiting for surgery and, next,
23 you know, I'm on the road to B.H.U. and this stuff
24 inside of me.

25 Q. Okay.

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2 A. My thing is if they would do
3 surgery to remove the staple, they will see
4 everything that's inside of me and everything would
5 come out because there is a lot of stuff inside of
6 me.

7 Q. Okay. So the day of the incident
8 in your complaint. Did you have the cell window
9 covered at all?

10 A. Hell no, I have no cell window
11 cover. Not to my knowledge, no.

12 Q. Okay.

13 A. If I did, I don't remember but I
14 don't think so. But once again, the cameras that you
15 have, the video will be able to show everything as
16 the video is right in front of my cell.

17 So I -- once again, I don't know if I
18 did, but I doubt that I did.

19 Q. Okay. And was there something
20 about toothpaste? Is there a toothpaste involved
21 that day?

22 A. No.

23 Q. No.

24 A. That I know of.

25 Q. Okay. And is it your testimony

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2 that the corrections officers came to your cell to
3 move you to contraband watch?

4 A. To -- yes.

5 Q. And what were they moving you for
6 contraband watch for, again?

7 A. The only time I could be placed
8 on contraband watch is if the C.O. assume you got
9 something inside you or you have something inside of
10 you.

11 Contraband watch mean something that
12 you're not supposed to have. So I have something,
13 and nothing ever even came out. So they just have me
14 on contraband watch, when they should have put me and
15 sent me to the hospital.

16 Q. Okay. All right.

17 A. On the contraband watch -- yeah.

18 Q. All right.

19 A. If I --.

20 Q. And you said you don't remember
21 the name of your doctor that saw you at Marcy?

22 A. No, I'm not -- no but what you
23 could do is check for hospital records and when I was
24 in Downstate Correctional Facility, and when I was in
25 Mount Vernon facility, and it's -- they're going to -

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2 - those medical documents is going to show that,
3 yeah, but I don't trust -- I won't trust -- I won't
4 so much trust the prison medical records.

5 I'll say that you could talk to the
6 Mount Vernon Hospital and get my medical records from
7 there because they're going to show and produce that
8 I had the metal inside of me and it still is.

9 MS. HANER: All right. Okay. I think
10 that's all the questions that I have for you. Thank
11 you, for sharing your time. I appreciate it.

12 THE WITNESS: Are you going to send me
13 -- are you going to send me my discovery because I
14 had it the first time I mean, the C.O. messed it up,
15 so am I going to be receiving it again?

16 MS. HANER: Well, let's do first
17 things first. You're going to get a copy of the
18 transcript to review and then sign, and you're going
19 to get that from the court reporter that's on with
20 us.

21 And your questions about discovery, we
22 actually have a discovery conference scheduled with
23 the Judge. You might not have gotten the notice in
24 the mail yet because he just scheduled it, but that
25 conference is -- let me just check.

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2 THE WITNESS: May 23rd.

3 MS. HANER: Hang on. It is May 13th
4 at ten o'clock over the phone. So you should -- you
5 should be getting a notice in the mail from the Court
6 about that.

7 THE WITNESS: Thank you.

8 THE COURT: You're welcome. Other
9 than that, we're -- we're all set.

10 THE WITNESS: And anything I state is
11 -- and everything I state it matched up, I seen you
12 do the head nod.

13 MS. HANER: Huh?

14 THE WITNESS: I seen you do the head
15 nod. Everything I'm saying is matching up with
16 everything.

17 MS. HANER: I don't know what you're
18 referring to.

19 THE WITNESS: Yes, you do.

20 MS. HANER: But I think we are all
21 set. All right. Have a good day.

22 THE WITNESS: I wish you too, you too.

23 MS. HANER: Thanks, James.

24 THE REPORTER: Ms. Haner, all right we
25 are off the record.

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2 (The deposition concluded at 11:36

3 a.m.)

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2 I, JAMES MAGLARAS, do hereby certify that the

3 foregoing testimony of RASHAUN BLANFORD was taken by me,

4 in the cause, at the time and place, and in the presence

5 of counsel, as stated in the caption hereto, at Page 1

6 hereof; that before giving testimony said witness was duly

7 sworn to testify the truth, the whole truth and nothing

8 but the truth; that the foregoing typewritten

9 transcription, consisting of pages number 1 to 134,

10 inclusive, is a true record prepared by me and completed

11 by Associated Reporters Int'l., Inc. from materials

12 provided by me.

13 *James Maglaras*
14 JAMES MAGLARAS, Reporter *BM*

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4 Case Name: Blanford v Banks, et al
Index Number: 21-CV-0231
5 Deponent: Rashaun Blanford
Deposition Date: 5/2/2022
6 Examining Attorney: Christopher Hummel

8 Please read and make any changes and/or corrections in
your testimony and sign the transcript in the presence of
9 a notary public. Please do so within thirty (30) days.
10 If you fail to sign the transcript within thirty (30)
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